LIBRARY
SUPREME COURT, U.S.

TRANSCRIPT OF RECORD

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1950

No. 313

NATIONAL LABOR RELATIONS BOARD,
PETITIONER,

vs.

INTERNATIONAL RICE MILLING COMPANY, INC.,
ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

PETITION FOR CERTIORARI FILED SEPTEMBER 18, 1950.
CERTIORARI GRANTED DECEMBER 11, 1950.

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1950

No. 313

NATIONAL LABOR RELATIONS BOARD, PETITIONER,

vs.

INTERNATIONAL RICE MILLING COMPANY, INC., ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

INDEX

	Original	Print
Proceedings in U. S. C. A., Fifth Circuit	1	1
Petition for review	1	1
Order to file petition	14	8
Answer of National Labor Relations Board to petition for review, etc.	15	9
Proceedings before National Labor Relations Board	18	10
Charge filed October 16, 1947, Case No. 15-CC-1, with Exhibit "A" attached	18	11
Charge filed October 17, 1947, Case No. 15-CC-2, with Exhibit "A" attached	24	14
Charge filed October 20, 1947, Case No. 15-CC-3	28	17
Amended Charge filed January 5, 1948, Case No. 15-CC-4, with Exhibit "A" attached	30	18
Order of National Labor Relations Board consolidating cases	34	21
Complaint	36	22
Notice issued by National Labor Relations Board of consolidated hearing	44	26
Petition of respondent to National Labor Relations Board for extension of hearing on the complaint	47	27

	Original	Print
Proceedings before National Labor Relations Board—Continued		
Order of National Labor Relations Board, dated February 5, 1948, postponing hearing	49	28
Motion of respondent for a continuance and resetting of hearing, etc.	51	29
Order of National Labor Relations Board dated February 21, 1948, postponing hearing and changing place of hearing	54	30
Order of National Labor Relations Board dated March 5, 1948, postponing hearing	56	30
Order designating Frederic Parkes, Trial Examiner	57	31
Request of respondent for leave to file answer	59	31
Answer of respondent to complaint	61	32
Telegram from Complainants to Chief Trial Examiner, National Labor Relations Board, dated April 2, 1948, requesting extension of time to file brief before Trial Examiner	65	34
Telegram, Acting Chief Trial Examiner, dated April 5, 1948, granting all parties extension of time to file briefs with Trial Examiner	67	35
Telegram, Chief Law Officer, National Labor Relations Board, dated April 20, 1948, requesting further extension of time for filing brief with Trial Examiner	67	35
Telegram, William R. Ringer, Chief Trial Examiner, dated April 21, 1948, granting all parties further extension of time for filing briefs	68	35
Telegram, Chief Law Officer, National Labor Relations Board, dated May 21, 1948, requesting extension of time to file motions to correct transcript	69	36
Telegram, Frederic B. Parkes, 2nd, Trial Examiner, dated May 24, 1948, granting extension of time to correct transcript	70	37
Motion of C. Paul Barker, Chief Law Officer, National Labor Relations Board, to Trial Examiner to correct record	70	37
Order of Trial Examiner, dated June 23, 1948, for corrections in transcript of testimony, with list of corrections attached and affidavit of service thereof	74	39
Order transferring cases to the National Labor Relations Board, dated July 9, 1948, with affidavit of service thereof	81	44
Telegram, C. Paul Barker, Chief Law Officer, National Labor Relations Board, dated July 19, 1948, requesting permission to argue orally before the Board	86	46
Telegram, petitioners to National Labor Relations Board, dated July 26, 1948, requesting extensions of time for filing briefs	87	47
Motion of Respondent for further extension of time for filing exceptions and brief	88	47

	Original	Print
Proceedings before National Labor Relations Board—Continued		
Telegrams, National Labor Relations Board, dated July 29, 1948, granting all parties further extension of time for filing exceptions and brief	90	48
Exceptions of petitioners to intermediate report of Trial Examiner	91	49
Telegram, C. Paul Barker, Chief Law Officer, National Labor Relations Board, dated August 11, 1948, requesting still further extension of time for filing briefs	92	49
Telegram, National Labor Relations Board, dated August 13, 1948, granting all parties still further extension of time for filing briefs	93	50
Exceptions of National Labor Relations Board to intermediate report of Trial Examiner	95	50
Union's Letter to National Labor Relations Board, dated August 30, 1948, requesting opportunity to participate in oral argument before the Board	99	53
Decision and order, entered June 20, 1949	100	53
Intermediate report of Trial Examiner, dated June 25, 1948	104	56
Certificate of the National Labor Relations Board	149	87
Minute entry of argument and submission	153	89
Opinion of Court, Holmes, J.	153	89
Judgment	160	96
Motion of International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America Local 201, to Intervene with certificate of service attached thereto	161	97
Order denying motion of International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local, 201, to intervene	162	98
Clerk's certificate (omitted in printing)	162	
Order allowing certiorari	164	98

1 In the United States Circuit Court of Appeals for the Fifth Circuit

No. 12909

INTERNATIONAL RICE MILLING COMPANY, INC., ET AL., PETITIONER

versus

NATIONAL LABOR RELATIONS BOARD, RESPONDENT

PETITION FOR REVIEW AND TO SET ASIDE ORDER OF THE NATIONAL LABOR RELATIONS BOARD AND TO MAKE AND ENTER A DECREE

Filed August 1, 1949

To the Honorable, the Judges of the United States Circuit Court of Appeals for the Fifth Circuit:

The following named corporations and individuals, hereinafter referred to as "Petitioners:"

1. International Rice Milling Company, Inc., a Louisiana corporation with its principal office and plant at Crowley, Louisiana, and engaged in operating a rice mill;

2. American Rice Milling Company, Inc., a Louisiana corporation with its principal office and plant at Crowley, Louisiana, and engaged in operating a rice mill;

3. Louisiana State Rice Milling Company, Inc., a Louisiana corporation with its principal office at Abbeville, Louisiana, and engaged in operating rice mills at Abbeville, Crowley, and Rayne, Louisiana;

2 4. Kaplan Rice Mills, Inc., a Louisiana corporation with its principal office and plant at Kaplan, Louisiana and engaged in operating a rice mill;

5. Joseph Dore, Sr., an individual doing business as Supreme Rice Mill, having his principal office and plant at Crowley, Louisiana, and engaged in operating a rice mill; and

6. Monte Loving, an individual doing business as Loving Rice Mills, having his principal office and plant at Crowley, Louisiana, and engaged in operating a rice mill;

respectfully petition this Honorable Court for a review of a final order of the National Labor Relations Board, hereinafter referred to as the "Board", in four certain proceedings, instituted upon the complaints of your petitioners, entitled on the records of the Board,

"In the Matter of International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 201, AFL, and The International Rice Milling Co., Inc., American Rice Milling Co., Inc.; Louisiana State Rice Milling Co., Inc.; and Joseph Dore, Sr., doing business as Supreme Rice Mill"

"In the Matter of International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 201, AFL, and Loving Rice Mills"

"In the Matter of International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 201, AFL, and Louisiana State Rice Milling Co., Inc."

3 "In the Matter of International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 201, AFL, and Kaplan Rice Mills, Inc."

being cases numbered 15-CC-1, 2, 3, and 4, which cases have heretofore been consolidated in the proceedings before the Board.

In support of this petition, your petitioners respectfully show:

I

That each of your petitioners is domiciled in the State of Louisiana, and doing business as described above in Crowley, Rayne, Abbeville, and Kaplan, Louisiana.

II

That during the month of October, 1947, your petitioners filed with the Board several charges, and amended charges, alleging that the International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America, Local No. 201, AFL, hereinafter referred to as the "Union", had engaged in and was engaging in unfair labor practices within the meaning of Section 8(b)(4)(A) and (B) of the National Labor Relations Act, as amended, hereinafter referred to as the "Act".

III

That following an investigation by the said Board, the General Counsel of the Board issued a complaint on January 27, 1948, against the aforesaid Union, charging said Union with viola-

4 tions of Section 8(b)(4)(A) and (B), and Section 2(6) and (7) of the Act.

IV

That on March 25, 26, and 27, 1948, a hearing upon the aforesaid complaint was held in Crowley, Louisiana, before Frederic B. Parkes, II, the duly designated Trial Examiner, appearing on behalf of the Board; that on or about June 25, 1948, the aforesaid Trial Examiner issued his Intermediate Report in this matter, said Report being numbered IR-1666. C. M. III.

V

That subsequent to the issuance of the aforesaid Intermediate Report, your petitioners timely filed Exceptions to said Intermediate Report, and a brief in support of said Exceptions. C. M. III.

VI

That on or about June 20, 1949, the Board rendered its Decision and Order in this matter, dismissing the complaint theretofore filed against the aforesaid Union. C. M. III.

VII

That the Board erred in entering its said Decision and Order of June 20, 1949, in that:

(a) The Board determined as a matter of law that the employees of the Texas and New Orleans Railroad and the New Orleans, Texas and Mexico Railroad Company, Guy A. Thompson, trustee,
5 were not "employees" of any "employer", as those terms are found in Section 8(b)(4)(A) and (B) of the Act, and that, accordingly, the acts of the aforesaid Union with respect to the employees of these railroad companies did not constitute an unfair labor practice under the act.

(b) The Board found and determined that the activities of the aforesaid Union in picketing and engaging in violence, directed against the employees of the Sales and Service House of New Iberia, Louisiana, was "primary" picketing of the plant of the Kaplan Rice Mills, Inc., at Kaplan, Louisiana, and did not constitute a violation of Section 8(b)(4)(A) and (B) of the Act.

(c) The Board failed to adopt the findings, conclusions and recommendations of the aforesaid Trial Examiner, except that petitioners submit that said findings, conclusions and recommendations of the Trial Examiner should have been amended and enlarged as indicated by the Exceptions filed to the aforementioned Intermediate Report of the Trial Examiner, a copy of which Exceptions is annexed hereto and made part hereof.

(d) The Board failed to enter an order in the following language:

"The respondent, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 201, AFL, its officers and agents shall:

"1. Cease and desist from:

"(A) Inducing or encouraging by any means whatsoever, including picketing on or across railroad rights of way, wherever
6 said rights of way are located, the employees of the Texas and New Orleans Railroad, of the New Orleans, Texas and

Mexico Railroad Company and Guy A. Thompson, as trustee, of The Sales and Service House, or of any other employer to engage in a strike or a concerted refusal in the course of their employment to use, manufacture, process, transport, or otherwise handle or work on goods, articles, materials, or commodities, or to perform any services with the object of forcing or requiring the Texas and New Orleans Railroad; the New Orleans, Texas and Mexico Railroad Company and Guy A. Thompson, as trustee; The Sales and Service House; or any other employer to cease using, selling, handling, transporting, or otherwise dealing in the products of, or to cease doing business with, International Rice Milling Co., Inc.; American Rice Milling Co., Inc.; Louisiana State Rice Milling Co., Inc.; Joseph Dore, Sr., doing business as Supreme Rice Mill; Monte Loving, an individual doing business as Loving Rice Mills; and Kaplan Rice Mills, Inc.;

"(b) Inducing or encouraging by any means whatsoever, including picketing on or across railroad rights of way, wherever said rights of way are located, the employees of the Texas and New Orleans Railroad, of the New Orleans, Texas and Mexico Railroad Company and Guy A. Thompson, as trustee, of The Sales and Service House, or of any other employer to engage in a strike or a concerted refusal in the course of their employment to use, manufacture, process, transport, or otherwise handle or work on goods, articles, materials, or commodities, or to perform any services with the object of forcing or requiring International Rice Milling Co., Inc.; American Rice Milling Co., Inc.; Louisiana State Rice Milling Co., Inc.; Joseph Dore, Sr., doing business as Supreme Rice Mill;
7 Monte Loving, an individual doing business as Loving Rice Mills; and Kaplan Rice Mills, Inc., to recognize or bargain with International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 201, AFL, as the representative of the employees of such companies unless such labor organization has been certified by the Board as the representative of such employees.

"2. Take the following affirmative action, which the Board find will effectuate the policies of the Act:

"Post in conspicuous places at the business office of International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 201, AFL, at Crowley, Louisiana, where notices or communications to members are customarily posted, copies of the notice attached hereto. Copies of the notice to be furnished by the Regional Director for the Fifteenth Region, shall after being signed by an official representative of Local No. 201, be posted by the respondent immediately upon receipt thereof and

maintained by it for a period of sixty (60) consecutive dates thereafter. Reasonable steps shall be taken by the respondent to insure that said notices are not altered, defaced, or covered by any other material."

VIII

That under the provisions of Section 10(f) of the Act, 29 U. S. C. A., Sec. 160(f), this Honorable Court has jurisdiction in the premises.

Wherefore, petitioners pray that this Honorable Court review the aforementioned Decision and Order of the Board of June 20, 1949, in the aforementioned proceedings of the National Labor Relations Board, Cases No. 15-CC-1, 2, 3, and 4, which Decision and
8 Order are erroneous, as above set forth, and

Petitioners further pray that:

(a) The Board be directed to certify and to deliver to this Honorable Court a transcript of the entire record of the said proceedings before the Board; and

(b) Upon the filing of the said transcript, this Honorable Court review the said Decision and Order of the Board; and

(c) The said Decision and Order of the Board be set aside, and that this Honorable Court make and enter a decree in the following terms and words, to-wit:

"The respondent, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 201, AFL, its officers and agents shall:

"1. Cease and desist from:

"(a) Inducing or encouraging by any means whatsoever, including picketing on or across railroad rights of way, wherever said rights of way are located, the employees of the Texas and New Orleans Railroad, of the New Orleans, Texas and Mexico Railroad Company and Guy A. Thompson, as trustee, of The Sales and Service House, or of any other employer to engage in a strike or a concerted refusal in the course of their employment to use, manufacture, process, transport, or otherwise handle or work on goods, articles, materials, or commodities, or to perform any services, with the object of forcing or requiring the Texas and New Orleans
9 Railroad; the New Orleans, Texas and Mexico Railroad Company and Guy A. Thompson, as trustee; The Sales and Service House; or any other employer to cease using, selling, handling, transporting, or otherwise dealing in the products of, or to cease doing business with, International Rice Milling Co., Inc.; American Rice Milling Co., Inc.; Louisiana State Rice Milling Co., Inc.; Joseph Dore, Sr., doing business as Supreme Rice Mill; Monte

Loving, an individual doing business as Loving Rice Mills; and Kaplan Rice Mills, Inc.;

"(b) Inducing or encouraging by any means whatsoever, including picketing on or across railroad rights of way, wherever said rights of way are located, the employees of the Texas and New Orleans Railroad, of the New Orleans, Texas and Mexico Railroad Company and Guy A. Thompson, as trustee, of The Sales and Service House, or of any other employer to engage in a strike or a concerted refusal in the course of their employment to use, manufacture, process, transport, or otherwise handle or work on goods, articles, materials, or commodities, or to perform any services with the object of forcing or requiring International Rice Milling Co., Inc.; American Rice Milling Co., Inc.; Louisiana State Rice Milling Co., Inc.; Joseph Dore, Sr., doing business as Supreme Rice Mill; Monte Loving, an individual doing business as Loving Rice Mills; and Kaplan Rice Mills, Inc., to recognize or bargain with International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 201, AFL, as the representative of the employees of such companies unless such labor organization has been certified by the Board as the representative of such employees.

10 "2. Take the following affirmative action, which the Court finds will effectuate the policies of the Act:

"Post in conspicuous places at the business office of International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 201, AFL, at Crowley, Louisiana, where notices or communications to members are customarily posted, copies of the notice attached hereto. Copies of the notice to be furnished by the Regional Director for the Fifteenth Region, shall after being signed by an official representative of Local No. 201, be posted by the respondent immediately upon receipt thereof and maintained by it for a period of sixty (60) consecutive dates thereafter. Reasonable steps shall be taken by the respondent to insure that said notices are not altered, defaced, or covered by any other material."

(d) Petitioners be granted such additional relief as the law, equity, and the nature of their case may require.

BALDWIN, HASPEL & MOLONY,
(Signed) By L. A. MOLONY,
(Signed) CONRAD MEYER, III,
KAUFMAN, ANDERSON & LEITHEAD,
(Signed) By E. R. KAUFMAN,
MONROE & LEMANN,
(Signed) By NICHOLAS G. CALLAN,
Attorneys for Petitioners.

11 STATE OF LOUISIANA,
Parish of Orleans,

Before me, the undersigned authority, a Notary Public, duly commissioned and qualified within and for the Parish and State aforesaid, personally came and appeared:

Lawrence A. Molony, who, after being duly sworn, did depose and say:

That he is of Counsel for petitioners in the above and foregoing petition; that he has prepared same; and that all the allegations contained therein are true and correct to the best of his knowledge, information and belief.

That he has served a copy of this petition on the following named persons by depositing a copy of this petition in the United States mail on this date, addressed to each of them: Mr. Chris Dixie, Combs & Dixie, State National Building, Houston, Texas; Mr. Aubrey Hirsch, Triad Building, Baton Rouge, Louisiana; Mr. J. J. Davidson, Davidson & Davidson, Lafayette, Louisiana; Milling, Godchaux, Saal & Saunders, Atten: Mr. J. B. Miller, Whitney Building, New Orleans, Louisiana; Mr. C. Paul Barker, At-
12 torney, Fifteenth Region, N. L. R. B., 1539 Jackson Avenue, New Orleans, Louisiana; National Labor Relations Board, Washington 25, D. C.

(Signed) L. A. MOLONY.

Sworn to and subscribed before me on this 28th day of the month of July, 1949.

(Signed) CONRAD MEYER, III,
Notary Public.

NOTICE

To All Members of International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 201, AFL:

Pursuant to an Order of the United States Circuit Court of Appeals for the Fifth Circuit, and in order to effectuate the policies of the National Labor Relations Act, as amended, we hereby notify our members that:

We Will Not induce or encourage the employees of Texas and New Orleans Railroad, of New Orleans, Texas and Mexico Railroad Company and Guy A. Thompson, as trustee, of The Sales and Service House, or of any other employer, to engage in a strike or concerted refusal in the course of their employment to use, manufacture, process, transport, or otherwise handle or work on goods,

articles, materials, or commodities, or to perform any services with the object

13 1. Of forcing or requiring Texas and New Orleans Railroad; New Orleans, Texas and Mexico Railroad Company and Guy A. Thompson, as trustee; The Sales and Service House; or any other employer to cease using, selling, handling, transporting, or otherwise dealing in the products of, or to cease doing business with, International Rice Milling Co., Inc.; American Rice Milling Co., Inc.; Louisiana State Rice Milling Co., Inc.; Joseph Dore, Sr., doing business as Supreme Rice Mill; Monte Loving, an individual doing business as Loving Rice Mills; and Kaplan Rice Mills, Inc., or

2. Of forcing or requiring International Rice Milling Co., Inc.; American Rice Milling Co., Inc.; Louisiana State Rice Milling Co., Inc.; Joseph Dore, Sr., doing business as Supreme Rice Mill; Monte Loving, an individual doing business as Loving Rice Mills; and Kaplan Rice Mills, Inc., to recognize or bargain with International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 201, AFL, as the representative of the employees of such companies unless Local No. 201, has been certified by the National Labor Relations Board as the representative of such employees.

INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA, LOCAL NO. 201, AFL, (Labor Organization),

By .....,
Title of Officer.

Dated: .....

This notice must remain posted for sixty (60) days from the date hereof, and must not be altered, defaced, or covered by any other material.

14 In the United States Court of Appeals for the Fifth Circuit

[Title omitted]

ORDER TO FILE PETITION—Filed August 1, 1949

A petition for review of the Order of the National Labor Relations Board entered on June 20, 1949, in the proceedings entitled "In the Matter of International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 201, AFL, and The International Rice Milling Co., Inc.; American Rice Milling Co., Inc.; Louisiana State Rice Milling Co., Inc.; and

Joseph Dore, Sr., doing business as Supreme Rice Mill," "In the Matter of International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 201, AFL, and Loving Rice Mills," "In the Matter of International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 201, AFL, and Louisiana State Rice Milling Co., Inc.", and "In the Matter of International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 201, AFL, and Kaplan Rice Mills, Inc.", Cases Nos. 15-CC-1, 2, 3, and 4, having been presented to this Court;

It Is Ordered that said petition be filed and docketed as of August 1st, 1949; and

15 It Is Further Ordered that a copy of this Order and the said petition be forthwith served on the National Labor Relations Board, and that said Board, upon service of such copy, forthwith certify and file in this Court a transcript of the entire record of the aforesaid proceeding in conformity with Rule 38 of this Court.

New Orleans, Louisiana, this 1st day of August, A. D. 1949.

(Signed) CURTIS L. WALLER,
United States Circuit Judge.

In the United States Court of Appeals for the Fifth Circuit

[Title omitted]

ANSWER OF NATIONAL LABOR RELATIONS BOARD TO PETITION FOR REVIEW OF AND TO SET ASIDE ITS ORDER—Filed September 26, 1949

To the Honorable, the Judges of the United States Court of Appeals for the Fifth Circuit:

Comes now the National Labor Relations Board, herein called the Board, and pursuant to the National Labor Relations Act, as amended (61 Stat. 136, 29 U. S. C., Supp. I, Secs. 141, et seq.), herein called the Act, files this answer to the petition for review of and to set aside an order issued by the Board in the proceedings designated on the records of the Board as Cases Nos. 15-CC-1,

16 15-CC-2, 15-CC-3, and 15-CC-4, entitled respectively: In the Matter of International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 201, AFL, and The International Rice Milling Co., Inc.; American Rice Milling Co., Inc.; Louisiana State Rice Milling Co., Inc.; and Joseph Dore, Sr., doing business as Supreme Rice Mill; In the Matter of International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 201, AFL and

Loving Rice Mills; In the Matter of International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 201, AFL and Louisiana State Rice Milling Co., Inc.; In the Matter of International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 201, AFL and Kaplan Rice Mills, Inc.

1. The Board admits the allegation contained in Part VIII of the Petition for Review.

2. Answering the allegations contained in Parts I, II, III, IV, V, and VI of the Petition for Review, the Board prays reference to the certified transcript of the record, filed herewith, of the proceedings heretofore had herein, for a full and exact statement of the pleadings, evidence, findings of fact, conclusions of law, and order of the Board, and all other proceedings had in the matter.

3. The Board denies each and every allegation of error contained in Part VII of the Petition for Review.

4. Further answering, the Board avers that the proceedings had before it, the findings of fact, conclusions of law, and order of the Board were and are in all respects valid and proper under the Act.

17 Wherefore, the Board respectfully requests this Court to deny the Petitioner's prayer for relief.

NATIONAL LABOR RELATIONS BOARD,
(S.) By A. NORMAN SOMERS,
(A. Norman Somers),
Assistant General Counsel.

Dated at Washington, D. C., this 23rd day of September, 1949.

Duly sworn to by A. Norman Somers. Jurat omitted in printing.

18 United States of America

National Labor Relations Board

CHARGE AGAINST LABOR ORGANIZATION OR ITS AGENTS

Pursuant to Section 10(b) of the National Labor Relations Act, the undersigned hereby charges that The International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 201, and Messrs. Leo B. Carter, Milton G. J. Broussard and Paul Kuhns, at Crowley and Abberville, Louisiana has (have) engaged in and is (are) engaging in unfair labor practices within the meaning of Section 8 (b) subsections 4, 4(a), 4(b) of said Act, in that. (Recite in detail the basis of the charge. Be specific

as to names, addresses, plants, dates, places and other relevant facts).

EXHIBIT A

The International Rice Milling Co., Inc. of Crowley, Louisiana, the Supreme Rice Mill of Crowley, La. the American Rice Milling Co., Inc. of Crowley, and the Louisiana State Rice Milling Co., Inc., with rice mills at Crowley and Abbeville, are engaged in the milling of rice and the purchase and sale thereof in Interstate Commerce. The International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 201, during the early part of 1947, filed a petition before this Board claiming to represent a majority of the employees of said companies. The said petitions were withdrawn by this union before elections were held on said petitions and the said union was never certified as the
19 bargaining representatives of the employees of said companies. On September 3, 1947, the said companies received a telegram from Leo B. Carter, Milton G. J. Broussard and Paul Kuhns, stating that they had been selected as a committee by a majority of the employees to represent them in all matters pertaining to collective bargaining and in connection with a work stoppage which they alleged existed at the said plants. All three parties who signed the said telegram are officers of the said International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America or one of the Locals thereof; and neither the said union or any of the said committee have ever been recognized by the companies as representing a majority of the employees and the said companies have continued to operate their mills up to the present time. During the evening of October 13, 1947, Mr. Milton G. J. Broussard advised Mr. Andrew Lacour, Local Chairman of the Brotherhood of Railroad Trainmen, representing the employees of the Missouri-Pacific Railroad Co., the Southern Pacific Railroad Co., the T & NO Railroad Co. and the Texas and Pacific Railroad Co. that he had heard rumors that if the railroad employees did not respect the picket lines of the Interna—l Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 201, or of the said committee, there might be trouble and that the trainmen would get hurt if they crossed the picket lines to switch cars.

On the morning of October 14th, 1947 the said union and/or committee established picket lines across the railroad tracks outside of and leading into the mills of the said companies; that, specifically, a picket line was established on the sidewalk parallel to Avenue F in Crowley, which crosses the railroad track which leads into the International Rice Mill, the sidewalk being
20 immediately adjacent to the International Rice Mill, the Right of Way and railroad track, however, being owned by

the railroad company. Another picket line was established on the railroad track paralleling Parkerson Avenue, in Crowley, immediately adjacent to the mill of the Louisiana State Rice Milling Co., said picket line crossing the railroad tracks belonging to the railroad companies. Another picket line was established across the railroad track leading into the rice mill of the Louisiana State Rice Milling Co., at Abbeville, Louisiana, on Railroad Avenue and Jefferson Street.

On the morning of October 15th, 1947 another picket line was established by this said union, or committee, on an unnamed street and across the right-of-way and tracks of the Missouri-Pacific Railroad Co. at a point 200 yards west of the Supreme Rice Mill, in Crowley; that this track is used to serve numerous rice mills in Crowley and the point of the said picket line was west of the town so that a refusal to cross the said picket line would make it impossible for the said railroad to haul freight to and from any of the said rice mills on the said line, including the American Rice Milling Co., the Louisiana State Rice Mill, the Supreme Rice Mill and the Imperial Rice Mill. As a result of the statements made by Mr. Broussard to Andrew Lacour, above mentioned, as a representative of the employees of the said railroads, and of the said picket lines, the employees of the said railroad companies on the morning of October 15th, 1947 refused to cross the said picket lines and to haul freight into or out of the said mills. The Louisiana State Rice Milling Co. and the American Rice Milling Company both had freight consigned to them on the Missouri-Pacific Railroad Company track which was en route to be moved into the plants over that track on the morning of the 15th and which was stopped at the picket line 200 yards west of the Supreme Rice Mill
21 where the employees of the said Missouri-Pacific Railroad, because of the said picket line and the statements made above, refused to cross that picket line; that the said picket line is at a point at least 600 yards west of the American Rice Milling Co.; that the Supreme Rice Milling Co. also had freight consigned to it on the said Missouri-Pacific Railroad track on the morning of October 15th, 1947 which was stopped at the picket line 200 yards west of its said mill, and because of the said picket line and the statements made above, the employees of the railroad refused to cross the said picket line and deliver the said freight; that said union and/or committee also established a picket line on the east side of the Supreme Rice Mill and across the railroad track at that point; that on the morning of October 16th, 1947, the said union and/or committee established a picket line at a point approximately 200 feet west of the plant of the American Rice Milling Co. and across the railroad right-of-way at that point. Because of all of the said picket lines and the statements

above referred to, the employees of the said railroad companies have refused and continue to refuse to cross any of the said picket lines or to haul freight into or out of any of the said mills; that said actions, above described, constitute an unfair labor practice within the meaning of Section 8(b), Subsections 4, 4(a), 4(b) of the National Labor Relations Act.

The rice being received and shipped by the said mills is a perishable commodity; that a large part of its is being received from dryers which have no facilities for storage; that if they are unable to have the said rice transported to these mills, it would not be possible for them to accept it from the farmers and a serious irreparable loss and injury would be suffered by the rice farmers of Louisiana and by the said mills; that the said rice is an
22 essential substitute for wheat in the present National Campaign to conserve wheat for the feeding of Europe and serious injury will be suffered by the people of the community and the Nation if the said union and the committee are not immediately restrained and enjoined by the District Court of the United States on Petition of the Board or its regional attorney under Section 10, Subsections (j) and (l) of the Act, pending a hearing by this Board, from continuing the said unfair labor practices.

The undersigned further charges that said unfair labor practices are unfair labor practices affecting commerce within the meaning of said Act.

Name of Employer The International Rice Milling Co., Inc., American Rice Milling Co., Inc. and the Louisiana State Rice Milling Co., Inc. and the Supreme Rice Mill,

Location of plants involved Crowley, Louisiana and Abbeville, La.

Nature of Business Rice milling.

The labor organization filing the charge herein has complied with Section 9(f) and (g) of said Act. Certificate of Compliance was issued by the Department of Labor on .....
bearing Certificate No. ..... and the expiration date ..... The officers of this labor organization has also filed affidavits with the National Labor Relations Board under date of ..... as required by Section 9(h) of said Act.

Upon information and belief, the national or international labor organization of which this organization is an affiliate or
23 constituent unit has also complied with Section 9(f), (g) and (h) of the Act.

The International Rice Milling Co., Inc., American Rice Milling Co., Inc. and the Louisiana State Rice Milling Co., Inc. and the Supreme Rice Mill (Full name of party filing charge).

All at Crowley, Louisiana (Address) ..... (Telephone number)

BALDWIN, HASPEL & MOLONY,
By L. A. MOLONY,
MONROE & LEMANN,
By NICHOLAS CALLAN,
ANDERSON & KAUFMAN,
By NICHOLAS CALLAN,
(Signature of parties filing charge.)
Attorneys.

Do not write in this space
Case No. 15-CC-1
Date filed October 16, 1947
9 (f), (g), (h) cleared .....

Subscribed and sworn to before me this 16th day of October, 1947, at New Orleans, Louisiana, as true to the best of deponent's knowledge, information, and belief.

CONRAD MEYER, III,
[SEAL.] *(Notary Public.)*

(Submit Original and Four Copies of this Charge.)

24 United States of America

National Labor Relations Board

CHARGE AGAINST LABOR ORGANIZATION OR ITS AGENTS

Pursuant to Section 10(b) of the National Labor Relations Act, the undersigned hereby charges that The International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 201, and Messrs. Leo B. Carter, Milton G. J. Broussard and Paul Kuhns, (Name of Labor organization or its agents) at Crowley, Louisiana, has (have) engaged in and is (are) engaging in unfair labor practices within the meaning of Section 8 (b) subsections 1, 4, 4a, 4b of said Act, in that (Recite in detail the basis of the charge. Be specific as to names, addresses, plants, dates, places, and other relevant facts).

EXHIBIT A.

The Loving Rice Mills, of Crowley, Louisiana, owned and operated by Mr. Monte Loving, are engaged in the milling of rice and the purchase and sale thereof in Interstate Commerce. The International Brotherhood of Teamsters, Chauffeurs, Warehousemen

and Helpers of America, Local No. 201, has never communicated to the proprietors of said mill any claim to represent the employees of that mill, but has endeavored to force its employees to engage in a strike. On October 4, 1947, nine representatives of the said union attacked and assaulted three employees of the said mill, beating one of them with a club in an effort to force them to join the said union and engage in the said strike. As a result of this violence, one Leonard Maynard, connected with the union, pleaded guilty in the City Court of Crowley to striking
25 Thomas Stafford with a club and was fined $15.00. On the evening of October 13th, 1947, Mr. Milton G. J. Broussard, business agent of the said union, advised Mr. Andrew Lacour, Local Chairman of the Brotherhood of Railroad Trainmen, representing the employees of the Missouri-Pacific Railroad Company, the Southern Pacific Railroad Company, the T. & NO Railroad Company and the Texas & Pacific Railroad Company that he had heard rumors that if the railroad employees did not respect the picket lines of the International Brotherhood of Teamsters, Chauffers, Warehousemen and Helpers of America, Local No. 201, or of the union committee, there might be trouble and that the trainmen would get hurt if they crossed the picket lines to switch cars. On the morning of October 17th, 1947, the said union and/or committee representing the union established picket lines across the railroad tracks outside of and leading into the mill of the Loving Rice Mills, in Crowley, the picket line traversing the railroad track and the right-of-way of the railroad which is owned by the railroad company. Because of the statements, above referred to, made by Broussard to Lacour, and of the said picket line, the employees of the said railroad companies have refused and continue to refuse to cross the said picket line or to haul freight into or out of the said mill; that said actions, above described, constitute unfair labor practices within the meaning of Section 8(b), Subsections 1, 4, 4(a) and 4(b) of the National Labor Relations Act.

The rice being received and shipped by the said mills is a perishable commodity; that a large part of it is being received from dryers which have no facilities for storage; that if they are unable to have the said rice transported to these mills, it would not be possible for them to accept it from the farmers and a serious irreparable loss and injury would be suffered by the rice
26 farmers of Louisiana and by the said mills; that the said rice is an essential substitute for wheat in the present National Campaign to conserve wheat for the feeding of Europe and serious injury will be suffered by the people of the community and the Nation if the said union and the committee are not immediately restrained and enjoined by the District Court of the United States on petition of the Board or its regional attorney under Section 10,

Subsections (j) and (l) of the Act, pending a hearing by this Board, from continuing the said unfair labor practices.

Only one employee of the said mill has left his employment as a result of the said actions.

The undersigned further charges that said unfair labor practices are unfair labor practices affecting commerce within the meaning of said Act.

Name of Employer: Loving Rice Mills, owned and operated by Monte Loving.

Location of plant involved: Crowley, Louisiana.

Nature of Business: Rice milling.

The labor organization filing the charge herein has complied with Section 9(f) and (g) of said Act. Certificate of Compliance was issued by the Department of labor on ..... bearing Certificate No. ..... and expiration date ..... The officers of this labor organization have also filed affidavits with the National Labor Relations Board under date of ..... as required by Section 9(h) of said Act.

27 Upon information and belief, the national or international labor organization of which this organization is an affiliate or constituent unit has also complied with Section 9(f), (g) and (h) of the Act.

Loving Rice Mills, owned and operated by Monte Loving (Full name of party filing charge).

Crowley, Louisiana (Address) ..... (Telephone number).

BALDWIN, HASPEL & MOLONY,
By L. A. MOLONY,
(Signature of party filing charge)
Attorneys (Title, or office, if any).

Do not write in this space
Case No. 15-CC-2
Date filed October 17, 1947
9 (f), (g), (h) cleared .....

Subscribed and sworn to before me this 17th day of October, 1947 at New Orleans, Louisiana, as true to the best of deponent's knowledge, information, and belief.

CONRAD MEYER, III,
(Notary Public).

[SEAL.]

(Submit Original and Four Copies of this Charge).

28 United States of America

National Labor Relations Board

CHARGE AGAINST LABOR ORGANIZATION OR ITS AGENTS

Pursuant to Section 10(b) of the National Labor Relations Act, the undersigned hereby charges that Interna—l Brotherhood of Teamsters, Chauffers, Warehousemen and Helpers of America Local No. 201 and Messrs. Leo B. Carter, Milton C. J. Broussard and Paul Kuhns (Name of Labor organization or its agents) at Rayne, La., has (have) engaged in and is (are) engaging in unfair labor practices within the meaning of Section 8 (b) subsections 4, 4(a), 4(b) of said Act, in that (Recite in detail the basis of the charge. Be specific as to names, addresses, plants, dates, places, and other relevant facts). The facts in this matter are similar to those incorporated in charges heretofore filed against the above named parties by various rice mills, and are incorporated herein by reference. The charge here is made by Louisiana State Rice Milling Co., Inc. In this particular matter the above named parties on or about Friday, October 17, and since have maintained picket line railroad tracks in Arenas Street, Rayne, La., leading to the mill of Louisiana State Rice Milling Co., Inc., and have by means of threats, the nature of which are set out in the previous charges above referred to, prevented Louisiana State Rice Milling Co., Inc. from receiving rail service.

The undersigned further charges that said unfair labor practices are unfair labor practices affecting commerce within the meaning of said Act.

29 Name of Employer: Louisiana State Rice Milling Co., Inc.
Location of plant involved: Rayne, La.

Nature of Business: Rice Milling.

The labor organization filing the charge herein has complied with Section 9(f) and (g) of said Act. Certificate of Compliance was issued by the Department of Labor on ..... bearing Certificate No. ..... and expiration date .....
The officers of this labor organization has also filed affidavits with the National Labor Relations Board under date of .....
as required by Section 9(h) of said Act.

Upon information and belief, the national or international labor organization of which this organization is an affiliate or constitutent unit has also complied with Section 9(f), (g) and (h) of the Act.

Louisiana State Rice Milling Co., Inc. (Full name of party filing charge).

Abbeville, La. (Address) ..... (Telephone number).

LOUISIANA STATE RICE
MILLING CO., INC.,
KAUFMAN & ANDERSON,
By MONROE & LEMANN,
NICHOLAS CALLAN,
(Signature of party filing charge).
Attorneys (Title, or office, if any).

Do not write in this space
Case No. 15-CC-3
Date filed October 20, 1947
9 (f), (g), (h) cleared .....

30 Subscribed and sworn to before me this 20th day of October, 1947, at New Orleans, Louisiana, as true to the best of deponent's knowledge, information, and belief.

WATTS K. LEVERRET,
[SEAL.] *(Board Agent or Notary Public.)*

(Submit Original and Four Copies of this Charge).

United States of America

National Labor Relations Board

No. 15CC4

AMENDMENT TO CHARGE AGAINST LABOR ORGANIZATION OR ITS AGENTS

1. Pursuant to Section 10(b) of the National Labor Relations Act, the undersigned hereby charges that The International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America, Local 201, and Messrs. Leo B. Carter, Milton G. J. Broussard & Paul Kuhns (Name of labor organization or its agents) at Kaplan, Louisiana, has (have) engaged in and is (are) engaging in unfair labor practices within the meaning of Section 8(b) subsections 4, 4(a), 4(b), of said Act, in that: (Recite in detail in paragraph 2 the basis of the charge. Be specific as to names, addresses, plants, dates, places, and other relevant facts).

31 EXHIBIT "A"

2. On the 21st day of October, 1947, a wholesale van truck, driven by Clarence Boutte, a white man, with a negro helper, at-

tempted to enter the Kaplan Rice Mills, Inc., at Kaplan, to get a load of rice bran which they had been ordered to pick up. The International Brotherhood of Teamsters Union and the members of its picket line stopped the truck on the road into the said mill and advised them that they could not go to the Kaplan Rice Mill. Mr. C. J. Montgomery, Jr., Manager of the said mill, thereupon drove to meet the said truck and advised the driver that he should return to the mill and that he, Montgomery, would ride with him to be certain that no interference took place. The truck then proceeded in the direction of the Kaplan Rice Mill, taking a route that would lead it around the pickets so that it would not come into contact with the pickets. The pickets, seeing the truck, however, ran across to the street on which the truck was approaching and endeavored to stop the truck. Montgomery, seeing the strikers coming in the direction of the truck, walked along by the side of the truck in order that they might see that he was present. The strikers called to the truck to stop. Montgomery ordered him to go on. Thereupon, the strikers who were members and employees of the International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America, Local 201, picked up rocks and began throwing them at the driver of the truck and Montgomery. Montgomery jumped on the running board of the truck so that he might put his head in the cab to keep from getting struck by the rocks. He was struck on the shoulder but the truck ran the barrage of rocks from the strikers and went on through to the mill. Max C. Broussard, Minous, and Langlinais were thereafter convicted in the City Court in Kaplan for this violence, having been charged with assault and battery.

32 The undersigned further charges that said unfair labor practices are unfair labor practices affecting commerce within the meaning of said Act.

3. Name of Employer: Kaplan Rice Mills, Inc.

4. Location of plant involved Kaplan, Louisiana (Street) (City) (State) Employing 75 (Number of workers)

5. Nature of business: Rice Milling.

6. (Paragraphs 6, 7, and 8 apply only if the charge is filed by a labor organization) The labor organization filing this charge, hereinafter called the union, has complied with Section 9(f)(A), 9(f)(B)(1), and 9(g) of said Act as amended, as evidenced by letter of compliance issued by the Department of Labor and bearing code number ..... The financial data filed with the Secretary of Labor is for the fiscal year ending ..... A Certificate has been filed with the National Labor Relations Board in accordance with Section 9(f)(B)(2) stating the method

employed by the union in furnishing to all its members copies of the financial data required to be filed with the Secretary of Labor.

7. Each of the officers of the union has executed a non-communist affidavit as required by Section 9(h) of the Act.

8. Upon information and belief, the national or international labor organization of which this organization is an affiliate or constituent unit has also complied with Section 9(f), (g), and (h) of the Act.

33 Kaplan Rice Mills, Inc. (Full name of party filing charge) Kaplan, Louisiana (Address) (Street) (City) (State) ..... (Telephone number)

By LAWRENCE A. MOLONY,
(Signature of representative or person filing charge).
Attorney (Title or office, if any).

Do not write in this space
Case No. 15-CC-4
Date filed January 5, 1948
9(f), (g), (h) cleared .....

Subscribed and sworn to before me this 2nd day of January, 1948, at New Orleans, La., as true to the best of deponent's knowledge, information and belief.

CONRAD MEYER III,
[SEAL.] *(Notary Public).*

(Submit Original and Four Copies of this Charge.)

34 Before the National Labor Relations Board

In the Matter of:

Case No. 15-CC-1

The International Rice Milling Co., Inc., American Rice Milling Co., Inc. and the Louisiana State Rice Milling Co., Inc. and the Supreme Rice Mill

and

The International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 201, and Messrs. Leo B. Carter, Milton G. J. Broussard and Paul Kuhns.

Case No. 15-CC-2

Loving Rice Mills, Owned and Operated by Monte Loving

and

The International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of Ameriea, Local No. 201, and Messrs. Leo B. Carter, Milton G. J. Broussard and Paul Kuhns.

Case No. 15-CC-3

Louisiana State Rice Milling Co., Inc.,

and

International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 201; and Messrs. Leo B. Carter, Milton G. J. Broussard and Paul Kuhns.

Case No. 15-CC-4

Kaplan Rice Mills, Inc.

and

The International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 201, and Messrs. Leo B. Carter, Milton G. J. Broussard and Paul Kuhns.

ORDER CONSOLIDATING CASES

35 A charge, pursuant to Section 10 (b) of the Act, having been filed by The International Rice Milling Co., Inc., American Rice Milling Co., Inc. and the Louisiana State Rice Milling Co., Inc. and the Supreme Rice Mill in Case No. 15-CC-1;

a charge having been duly filed by Loving Rice Mills, owned and operated by Monte Loving in Case No. 15-CC-2; a charge having been duly filed by Louisiana State Rice Milling Co., Inc. in Case No. 15-CC-3; a charge having been duly filed by Kaplan Rice Mills, Inc. in Case No. 15-CC-4, and the General Counsel of the Board having duly considered the matter and deeming it necessary in order to effectuate the purposes of the National Labor Relations Act, and to avoid unnecessary costs or delay,

It Is Hereby Ordered, pursuant to Section 203.33 (b) of National Labor Relations Board Rules and Regulations—Series 5, that these cases be, and they hereby are, consolidated.

Dated, Washington, D. C., January 23, 1948.

On behalf of the Board:

ROBERT N. DENHAM,
General Counsel.

36 Before the National Labor Relations Board, Fifteenth Region

[Titles omitted]

COMPLAINT

37 It having been charged by The International Rice Milling Co., Inc., American Rice Milling Company, Inc., Louisiana State Rice Milling Co., Inc., Supreme Rice Mill, Inc., Monte Loving, an individual doing business as Loving Rice Mills, all at Crowley, Louisiana, and by Kaplan Rice Mills, Inc., at Kaplan, Louisiana, that International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local 201, A. F. of L., Crowley, Louisiana, has engaged in and is now engaging in certain unfair labor practices affecting commerce as set forth and defined in the National Labor Relations Act, as amended (Public Law 101, Eightieth Congress, Chapter 120, First Session, hereinafter referred to as the Act), the General Counsel of the National Labor Relations Board (hereinafter referred to as the Board), on behalf of the Board, by Acting Regional Director for the Fifteenth Region, designated by the Board's Rules and Regulations, Series 5, Section 203.15, alleges as follows:

1. International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local 201, A. F. of L., (hereinafter referred to as respondent) is a labor organization within the meaning of Section 2, subsection (5) of the Act, and has its principal office at Crowley, Louisiana.

2. (1) The International Rice Milling Co., Inc., (hereinafter referred to as International), a Louisiana corporation, has its principal office at Crowley, Louisiana, where it operates a plant

for milling rice. In connection with its operations at its Crowley, Louisiana, plant during the year 1946 it purchased 153,101 barrels of rough rice of which approximately 9% was received from points outside the State of Louisiana. During the same year it processed 16,935,900 pounds of clean rice, approximately 77% of which was shipped to points outside the State of Louisiana.

38 (2) American Rice Milling Co., Inc. (hereinafter referred to as American), a Louisiana corporation, has its principal office at Crowley, Louisiana, where it operates a plant for milling rice. In the course and conduct of its operations at Crowley, Louisiana, during the year 1946, it purchased 230,135 barrels of rough rice of which approximately 7.31% was received from points outside the State of Louisiana. During the same year it processed 24,855,668 pounds of rice of which 19,258,100 pounds were shipped to points outside the State of Louisiana.

(3) The Louisiana State Rice Milling Co., Inc. (hereinafter referred to as Louisiana State), a Louisiana corporation, has its principal office at Crowley, Louisiana. It operates three plants located at Crowley, Rayne and Abbeville, Louisiana, engaged in milling rice. In connection with its operations at all of its three plants during the year 1946, it purchased 1,187,327 barrels of rough rice of which approximately 20% was received from points outside the State of Louisiana. During the same year it processed 130,803,500 pounds of rice, approximately 90% of which was shipped to points outside the State of Louisiana.

(4) Supreme Rice Mills, Inc. (hereinafter referred to as Supreme), a Louisiana corporation, has its principal office at Crowley, Louisiana where it operates a plant for milling rice. In connection with its operations during the year 1946, it purchased 300,000 barrels of rough rice of which approximately 20% was received from points outside the State of Louisiana. During the same year it processed 33,000,000 pounds of rice, approximately 95% of which was shipped to points outside the State of Louisiana.

(5) Monte Loving, an individual doing business as Loving Rice Mills (hereinafter referred to as Loving), has his principal
39 office at Crowley, Louisiana, where he operates a plant for milling rice. In connection with his operations, during the year 1946 he purchased 180,247 barrels of rough rice of which 47,204 barrels were received from points outside the State of Louisiana. During the same year he processed 20,000,000 pounds of rice, approximately 98% of which was shipped to points outside the State of Louisiana.

(6) Kaplan Rice Mills, Inc. (hereinafter referred to as Kaplan), a Louisiana corporation, has its principal office at Kaplan, Louisi-

ana, where it operates a plant for milling rice. In connection with its operations during the year 1946 it purchased 500,000 barrels of rough rice of which approximately 50% was received from points outside the State of Louisiana. During the same year it processed 50,000,000 pounds of rice, approximately 60% of which was shipped to points outside the State of Louisiana.

(7) Texas and New Orleans Railroad (hereinafter called Texas Railroad) is a Texas corporation engaged in the business of transporting freight and passengers in the State of Louisiana. In connection with its business, it owns and operates railroad equipment, rights-of-way, tracks, switches, public sidings and public team tracks in and around Crowley, Rayne and Abbeville, Louisiana.

(8) Guy A. Thompson, a resident of St. Louis, Missouri, is a duly qualified Trustee of the Property of the New Orleans, Texas and Mexico Railroad Company (hereinafter referred to as New Orleans Railroad) by virtue of an order of the U. S. District Court for the Eastern Division, Eastern Judicial District of Missouri in the proceedings entitled "In the Matter of Missouri Pacific Railroad Company, Debtor", Docket No. 6935 of the said Court. As such, the said Thompson operates the properties of New
40 Orleans Railroad. The New Orleans Railroad owns and operates railroads, railroad equipment, rights-of-way, tracks, switches, public sidings and public team tracks in and around Crowley, Louisiana.

(9) Paul T. Doerle, Pauline A. Davant, Thelma B. Doerle, Frances C. Doerle, Harold E. Doerle, Paul A. Doerle and Robert L. Doerle are co-partners doing business as The Sales and Service House (hereinafter called The Sales House) in New Iberia, Louisiana, where they are engaged in the business, among others, of selling feed and grain.

(10) The Texas Railroad, transports and handles goods, articles and commodites shipped to and from the respective plants, as set out above, of International, American, Louisiana State, Supreme, and Kaplan at Crowley, Rayne, Abbeville, and Kaplan, Louisiana, for and on behalf of these companies and others.

(11) The New Orleans Railroad transports and handles goods, articles and commodities shipped to and from the respective plants of International, American, Louisiana State, Supreme and Loving, at Crowley, Louisiana, for and on behalf of these companies and others.

(12) The Sales House purchases and handles goods, articles, and commodities from Kaplan.

(13) Respondent is not now, and has never been, certified as the representative for the purposes of collective bargaining under the provisions of the Act, of any of the employees of International, American, Louisiana State, Supreme, Loving or Kaplan.

41 (14) Respondent, on or about September 3, 1947, called a strike of the employees of International, American and Louisiana State, and on or about September 5, 1947, called a strike of the employees of Supreme and Kaplan, and on or about September 17, 1947, called a strike of the employees of Loving, at the respective plants, as alleged above, an object thereof being to force or require the said companies, and each of them, to recognize or bargain with respondent as the representative of the employees of each of the respective companies, and placed and thereafter maintained a picket line around each of the plants of the said companies.

(15) Beginning on or about October 13, 1947, and at all times thereafter, the location of the picket lines at each of the respective plants was changed from the immediate vicinity of the struck plants and placed at some distance from them, on and across the tracks and property of both the Texas Railroad and the New Orleans Railroad leading into the respective plants.

(16) On or about September 15, 1947, October 13, and 14, 1947, and thereafter, respondent by assaults, force, violence, threats of physical harm, damage to railroad property and other reprisal measures, by written and oral communications, by coercion, intimidation, and picketing, induced and encouraged the employees of Texas Railroad and New Orleans Railroad to engage in a strike or concerted refusal in the course of their employment to transport or otherwise handle, or work on, goods, articles, and commodities, shipped to or from the aforementioned plants of International, American, Louisiana State, Supreme, Loving, and Kaplan, or to perform services in connection with the shipment of such goods, articles and commodities.

42 (17) On or about October 21, 1947, respondent, by threats, assaults, force, violence, coercion, intimidation, and pickets, induced and encouraged the employees of The Sales House to engage in a concerted refusal in the course of their employment to transport or otherwise handle, or work on, goods, articles and commodities to or from the plant of Kaplan, or to perform services in connection with such goods, articles, and commodities.

(18) The object of respondent in engaging in the conduct described in paragraphs (16) and (17) above was and is (1) to force or require The Texas Railroad, The New Orleans Railroad, The Sales House, and each of them, to cease using, handling, transport-

ing or otherwise dealing in the products of or to cease doing business with International, American, Louisiana State, Supreme, Loving, and Kaplan, and (2) to force or require International, American, Louisiana State, Supreme, Loving, and Kaplan, and each of them to recognize or bargain collectively with the respondent as the representative of the employees of the respective companies.

(19) There was no labor dispute existing between The Texas Railroad, The New Orleans Railroad, or The Sales House, or any of them, and their respective employees at any of the times or dates alleged herein.

(20) By the acts described in paragraphs (16) through (19) above, respondent, through its agents, did engage in unfair labor practices within the meaning of Section 8 (b), subsections (4) (A) and (4) (B) of the Act.

(21) The activities of respondent described above in paragraphs (16) through (19), occurring in connection with the operations of International, American, Louisiana State, Supreme, Loving and Kaplan, the Texas Railroad, the New Orleans Railroad and
43 The Sales House, described in paragraphs (2) through (12) above, and each of them, have a close, intimate and substantial relations to trade, traffic and commerce among the several states and have led and tend to lead to labor disputes, burdening and obstructing commerce and the free flow of commerce.

(22) The aforesaid acts of respondent, as set forth and described above, constitute unfair labor practices affecting commerce within the meaning of Section 8 (b), subsections (4) (A) and (4) (B), and Section 2, subsections (6) and (7) of the Act.

Wherefore, the General Counsel of the National Labor Relations Board, on behalf of the Board, on this 27th day of January, 1948, issues its Complaint against International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local 201, AFL, respondent herein.

C. PAUL BARKER,
Acting Regional Director.

44 Before the National Labor Relations Board, Fifteenth Region

[Titles omitted].

NOTICE OF CONSOLIDATED HEARING

By Order dated January 23, 1948, the General Counsel of the National Labor Relations Board, on behalf of the Board,
45 consolidated the above-entitled proceedings for the purpose of a hearing;

Please Take Notice that on the 11th day of February, 1948, at ten o'clock in the forenoon, District Courtroom, Parish Courthouse, Lafayette, Louisiana, a hearing will be conducted before a duly designated Trial Examiner of the National Labor Relations Board on the allegations set forth in the Complaint attached hereto, at which time and place you will have the right to appear in person, or otherwise, and give testimony.

Copies of the Charges upon which the Complaint is based are attached hereto.

You are further notified that, pursuant to section 203.20 of the Board's Rules and Regulations, you shall file with the undersigned Acting Regional Director, acting in this matter as agent of the National Labor Relations Board, an answer to the said Complaint within ten (10) days from the service thereof and that unless you do so all of the allegations in the Complaint shall be deemed to be admitted to be true and may be so found by the Board.

In Witness Whereof the General Counsel of the National Labor Relations Board, on behalf of the Board, has caused this Complaint and Notice of Hearing to be signed by the Acting Regional Director for the Fifteenth Region on this 28th day of January, 1948.

C. PAUL BARKER,
Acting Regional Director, Fifteenth Region,
National Labor Relations Board.

631 Federal Office Building,
New Orleans 12, Louisiana.

[Affidavit and Return receipts omitted.]

* * * * * * *

46 Before the National Labor Relations Board, Fifteenth Region

[Titles omitted]

47 PETITION FOR EXTENSION OF HEARING

To the Honorable, the Regional Director National Labor Relations Board in and for the Fifteenth Region:

The petition and motion of Aubrey B. Hirsch, Esq., of counsel for International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local 201, in the above numbered and entitled cause with respect represents:

1. That by order dated January 23, 1948, the general counsel of the National Labor Relations Board on behalf of the Board consolidated the above entitled proceedings for the purpose of a hearing.

2. That the Honorable C. Paul Barker, Acting Regional Director of said Board set hearing for the above matter on the 11th day of

February, 1948, at 10 o'clock A. M. in the District Courtroom, Parish Courthouse, Lafayette, Louisiana, on the allegations set forth in the complaint of the above entitled matter;

3. That on February 9, 1948, at 10 o'clock A. M. in the District Court of the United States for the Western District of Louisiana, said Local 201 has been ordered to show cause why it should not be enjoined and restrained from doing the acts alleged in the captioned matter;

4. That said Local 201 is at present under preliminary injunction issued by Judge Paul DeBaillon of the Fifteenth Judicial District Court which injunction restrains Local 201 from picketing the switch tracks leading into the plants of American, Louisiana, Supreme, International, Kaplan and Loving Rice Mills and from in any way interfering with Texas & New Orleans and Missouri-Pacific Railroad Companies, its agent, and employees in moving cars to
48 and from public loading tracks or public team tracks;

5. That the undersigned counsel desires to withdraw from the above case and that Mr. Chris J. Dixie of Houston, Texas, plans to take over as counsel for said Local 201;

6. That it will not be possible for said Chris J. Dixie to adequately prepare a defense to the complaint filed by the Regional Director of the National Labor Relations Board.

Wherefore, petitioner prays that the dates set by the Regional Director on February 11, 1948, in Lafayette, Louisiana for the hearing on the above referred to complaint be extended for a period of at least two (2) weeks from date thereof.

AUBREY B. HIRSCH.

Duly sworn to by Aubrey B. Hirsch. Jurat omitted in printing.

49 [Proposed Order Omitted]

Before the National Labor Relations Board

[Titles omitted]

ORDER POSTPONING HEARING

50 Good cause having been shown that the date of hearing in the above matter, scheduled for February 11, 1948, should be postponed,

It Is Hereby Ordered that the hearing in the above-entitled matter be and the same hereby is postponed to the 25th day of February, 1948, at the same time and place.

Dated at New Orleans, Louisiana, this 5th day of February, 1948.

JOHN F. LEBUS,
Regional Director National Labor Relations Board, Fifteenth Region.

[Affidavit and Return Receipts omitted.]

* * * * * * *

51 Before the National Labor Relations Board, Fifteenth Region

[Titles omitted]

MOTION FOR CONTINUANCE AND RESETTING OF HEARING, ETC.

Now comes the respondent, Local 201 of the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers
52 of America, A. F. of L., and respectfully moves for a continuance and resetting of the hearing in the above entitled and numbered cause and respectfully alleges as grounds therefor, as follows:

That there exists an unavoidable conflict in setting between this case and another in which counsel for respondent is engaged and prepared for trial.

Said case is Alamo Express, Inc. vs. International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local 657, e tal., pending under cause F-44851 in the District Court of Bexar County, Texas, 57th Judicial District, which proceeding is an injunction suit which has been specially set by the said Court on its docket, which cause was set prior to the setting of the present proceeding before the National Labor Relations Board and is a matter of urgency and precedence over other causes on the docket of said Court, which proceeding is now in recess subject to hearing for appropriate temporary injunction orders to be issued by said Court.

Said cause is set at San Antonio, Texas, for February 26, 1948 and it is physically impossible for the undersigned counsel to attend and participate in both trials.

Respondent alleges that this continuance is not sought for delay only but in order that respondent will have the benefit of representation by counsel at the hearing and in order that justice may be done.

Wherefore, respondent prays that this cause be reset at a time convenient to the National Labor Relations Board, but as
53 soon after the week of March 1, 1948 as suits the convenience of the Board.

Respectfully submitted,

CHRIS DIXIE,
Counsel for Respondent.

Duly sworn to by Chris Dixie. Jurat omitted in printing.

54 Before the National Labor Relations Board

[Titles omitted]

ORDER POSTPONING HEARING AND CHANGING PLACE OF HEARING

Good cause having been shown that the date of hearing in the above matter, scheduled for February 25, 1948, should be
55 postponed, and that the place of hearing in Lafayette, Louisiana, should be changed.

It Is Hereby Ordered that the date of hearing be, and hereby is, postponed to March 10, 1948, at 10:00 a. m., and that the place of hearing be, and hereby is, changed to the Parish Court house, Crowley, Louisiana.

Dated this 21st day of February, 1948.

JOHN F. LEBUS,
Regional Director National Labor Relations Board Fifteenth Region.

[Affidavit and Return Receipts omitted.]

* * * * * * * *

56 Before the National Labor Relations Board

[Titles omitted]

ORDER POSTPONING HEARING

It Is Hereby Ordered that the hearing in the above-entitled matter be and the same hereby is postponed from the 10th
57 day of March, 1948, to the 25th day of March, 1948, at the same time and place.

Dated at New Orleans, Louisiana, this 5th day of March 1948.

JOHN F. LEBUS,
Regional Director National Labor Relations Board, Fifteenth Region.

[Affidavit and Return Receipts omitted.]

* * * * * * * *

Before the National Labor Relations Board, Trial Examining Division, Washington, D. C.

[Titles omitted]

ORDER DESIGNATING TRIAL EXAMINER

58 It Is Hereby Ordered that Frederic Parkes, 2nd, act as Trial Examiner in the above consolidated cases and perform all the duties and exercise all the powers granted to trial examiners under the Rules and Regulations—Series 5, of the National Labor Relations Board.

Dated, Washington, D. C., March 25, 1948.

WILLIAM R. RINGER,
[SEAL.] *Chief Trial Examiner.*

59 Before the National Labor Relations Board, Fifteenth Region

[Titles omitted]

REQUEST FOR LEAVE TO FILE ANSWER

Under the rules and regulations of the National Labor Relations Board, respondent respectfully asks leave to file its answer, hereto attached, and in support thereof respectfully shows the Regional Director that good cause therefor exists in that witnesses, other evidence, and information pertaining to said cause have been spread over long distances and inaccessible to counsel; that it has not been possible to make answer in said cause prior to the date hereof for the reasons stated; that the necessity for this leave has heretofore been communicated to the Regional Director; that as a result of time consumed in the investigation and preparation of the attached answer, substantial admissions are made thereby which will facili-
60 tate the hearing of this cause; that the principal substance of this answer has heretofore been communicated to the office of the Regional Director in order to avoid surprise or inconvenience to the Board.

Wherefore, respondent prays that its attached answer be accepted and filed by leave of the Board.

CHRIS DIXIE,
Counsel for Respondent.

Duly sworn to by Chris Dixie. Jurat omitted in printing.

61 Before the National Labor Relations Board, Fifteenth Region

[Titles omitted]

RESPONDENTS' ANSWER

62 To the National Labor Relations Board:

Respondent respectfully answers the complaint of the Board in the above styled cause as follows:

I

Respondent admits the allegations of the following paragraphs: I, II, III, IV, V, VI, VII, VIII, IX, X, XI, and XII.

II

As to Paragraph XIII, respondent admits lack of certification, but it alleges that it is duly authorized representative for purposes of collective bargaining pursuant to the Act as amended of the employees of the companies named in the complaint.

III

As regards Paragraph XIV, the strikes as alleged are admitted but it is specially denied that an object thereof was to force or require the said companies to recognize or bargain with respondent in any manner or any circumstances which constitutes a violation of the Act as amended. In this connection respondent alleges that the strike was called for organizational purposes as well as lawful recognition purposes and for the purpose of peaceful and orderly persuasion by conversation, picket lines and other lawful means of communication to both employers and employees involved, and for purposes of lawful concerted action to improve and further solidify our organization and that said strikes were therefore lawful primary strikes and picketing for organizational and recognition purposes, as authorized by the Act as amended.

63 IV

The allegations of Paragraph XV of the complaint are denied insofar as they imply the removal of picket lines and their placement at improper distances from the plants, and insofar as the said paragraph alleges or implies if it does that any picketing was directed against the property of the Texas Railroad and the New Orleans Railroad.

V

The allegations of Paragraph XVI are denied. The allegations of Paragraph XVII are denied. The allegations of Paragraph XVIII are denied. The allegations of Paragraph XIX are not within the knowledge of respondent. The allegations of Paragraph XX are denied. The allegations of Paragraph XXI are denied. The allegations of Paragraph XXII are denied.

VI

By way of special defense respondent alleges that it, as a labor organization, and its individual members, are engaged in a lawful, peaceful, primary strike and picketing for organizational and recognition purposes authorized by both Statute and Constitution of the United States; that pursuant thereto respondent and its members are exercising their constitutional right of Freedom of Speech, Freedom of Assembly under the First Amendment of the Constitution of the United States, which said constitutional privileges are protected by that Amendment and likewise by the Fifth Amendment of the Constitution of the United States.

64

VII

In this connection respondent alleges that it has engaged in lawful and peaceable picketing and communication of ideas at proper times and places, and especially upon the public streets and sidewalks without unlawful interference with ingress and egress.

VIII

In the foregoing connection respondent prays and demands as a matter of constitutional right that any order of cease and desist issued by the Board be so specifically framed as to not constitute a cloud or encumbrance upon the unhampered exercise of constitutional rights and so as not to reduce or impair the constitutional right of respondent and its members peacefully to exercise such rights upon the public streets and other proper places in order that they may fully and effectively advertise the facts relevant to their dispute.

IX

For special defense respondent alleges on information and belief that the charges in this cause have been filed by and have been initiated by the companies named in the complaint in Paragraphs II to VI, and such companies being the parties against whom primary picketing is directed and from whom recognition is sought, and at whose places of business picket lines pursuant to such dispute

are lawful, and since under the Act as amended, the refusal of any individual to cross said picket line is a privilege, respondents therefore assert that such companies have no status to institute proceedings complaining of secondary boycott or secondary picketing
65 which under the Act as amended may be filed by persons who are neutrals to the labor dispute.

X

For special defense respondents further assert that the companies named in Paragraphs VII and VIII are common carriers by rail engaged in interstate commerce and are subject to the jurisdiction of the Railway Labor Act, and they are not "employers" within the meaning of the Act so that the allegations of violations of the Act as amended in Sections 8(b), sub-sections (4) (A) and (4) (B) and Section 2, sub-sections (6) and (7) of the Act are insufficient in law.

Wherefore, respondent prays that this cause be dismissed. In the alternative respondent prays that any so-called cease and desist order issued herein be so restricted as to not becloud or impair the constitutional and statutory rights of respondent to advertise in public places by all peaceable and lawful means the facts deemed by them relevant to their dispute.

COMBS & DIXIE,
By CHRIS DIXIE,
Attorneys for Respondent.

809 State National Bank Bldg.,
Houston, Texas.

1948 Apr 2 PM 7.03

S.NSB 178 NL PD-New Orleans La 2

Chief Trial (Sic) Examiner—
National Labor Relations Board Rochambeau
Bldg 815 Connecticut Ave WashDC—

66 Reference cases 15-CC-1, 2, 3, and 4. 1Due to size of Transcript and delay in obtaining same request extension of fifteen days additional for filing briefs—

BALDWIN, HASPEL & MOLONY,
KAUFMAN & ANDERSON,
Attorneys for Complainants.

15-CC-1, 2, 3, 4.

April 5, 1948.

Kaufman & Anderson
Att.: E. R. Kaufman, Esq.
Kaufman Bldg.
Lake Charles, La.

Baldwin, Haspel & Molony
Att.: L. A. Molony, Esq. and C. Meyer III, Esq.
1108 Richards Bldg.
New Orleans, La.

Davidson & Davison
Att.: J. J. Davidson, Jr.
La Fayette, La.

C. Paul Barker, Chief Legal Officer
Natl. Labor Relations Board
631 Federal Office Bldg.
New Orleans, La.

Combs & Dixie
Att.: Chris Dixie, Esq.
State Nat'l Bank Bldg.
Houston, Texas

67 Aubrey Hirsch, Esq.
405 Triad Bldg.
Baton Rouge, La.

Milling, Godchaux, Sall & Milling
Att.: J. B. Miller, Esq.
1122 Whitney Bldg.
New Orleans, La.

Re Rice Milling et al., Cases 15-CC-1, 2, 3, and 4: At the request of attorneys for Complainants, time to file briefs is hereby extended to April 21.

GEORGE BOKAT,
Acting Chief Trial Examiner.

206 Wa No 4-20-48 345PM

William R Ringer Chief Trial Examr NLRB WA

Re Rice Mill cases 15-CC-1, 15-CC-2, 15-CC-3 and 15-CC-4. Request extension of time for filing brief with Trial Examiner this matter to Friday April 23. Stenographic situation prevents completion final copy prior this date.

C PAUL BARKER NLRB No. 15-CC-1 15-CC-2 15-CC-3 15-CC-4 23

SD 348PM

68 April 21, 1948

C. Paul Barker, Chief Legal Officer
Natl. Labor Relations Board
631 Federal Office Bldg.
New Orleans, La.

E. R. Kaufman, Esq.
Kaufman Bldg.
Lake Charles, La.

Chris Dixie, Esq.
State National Bank Bldg.
Houston, Texas

J. B. Miller, Esq.
Whitney Bldg.
New Orleans, La.

Monroe and Lemann
Att: Mr. Nicholas Kalalan
Whitney Bank Bldg.
New Orleans, La.

Baldwin, Haspel & Molony
Att: Lawrence A. Molony & Conrad Meyer
1108 Richards Bldg.
New Orleans, La

Aubrey Hirseh, Esq.
405 Trial Bldg.
Baton Rouge, La.

J. J. Davidson, Esq.
Lafayette, La.

69 Re Rice Milling, cases 15-CC-1, 15-CC-2, 15-CC-3 and 15-CC-4: At the request of Counsel for the General Counsel, time to file briefs is hereby extended to April 23.

WILLIAM R. RINGER,
Chief Trial Examiner.

121 WA No 5-21-48 517P

Frederick B. Parks, Trial Examiner NLRB WA

Re. Teamsters 15-CC-1 to 15-CC-4. Due to Stenographic Log-Jam request extension of time to file motions to correct transcript until Tuesday May 25.

C. PAWL BARKER, NLRB No

15 1 15 4 25
DB 518P

May 24, 1948.

C. Paul Barker, Chief Legal Officer
National Labor Relations Board
631 Federal Office Building
New Orleans, La.

E. R. Kaufman, Esq.
Kaufman Building
Lake Charles, La.

Chris Dixie, Esq.
State National Bank Bldg.
Houston, Texas

70 Baldwin, Happel & Molony
Att: Lawrence A. Molony & Conrad Meyer
1108 Richards Building
New Orleans, La.

Aubrey Hirsch
405 Triad Building
Baton Rouge, La.

Re: Rice Milling, case Nos. 15-CC-1, 2, 3, and 4. At the request of Counsel for the General Counsel, time to file Motions to Correct Transcript extended to May 25.

FREDERIC B. PARKS, 2ND,
Trial Examiner.

Before the National Labor Relations Board, Fifteenth Region

[Title omitted]

MOTION TO CORRECT RECORD

To Honorable Frederick B. Parks, II, Trial Examiner, National Labor Relations Board.

71 Now comes the undersigned and moves to correct the transcript of testimony in the above entitled matter in the following particulars:

Page 17, line 13	The word "unless" to "to elecit"
Page 17, line 19	After the word "is" add the words "ratione materiae"
Page 17, line 20	Strike the words "in this" and substitute the words "at any"
Page 20, line 16	Add after the word "Congress" the following: "To exclude this class of cases"

Page 20, line 17	Strike the words "not" and substitute "Not"
Page 21, line 23 and 24	Substitute "we" for "I"
Page 22, line 3	Strike the words "September report" and substitute "Senate reports"
Page 22, line 4	Chance the figure 11.6 to 1126.
Page 22, line 10	Strike the whole of line 10 and substitute as follows: "apply to unfair labor practices of labor organizations representing employees of railroads"
Page 22, line 11	Substitute "this" for the word "their"
Page 22, line 21	Strike the words "not any" and substitute the word "no" and strike the words "arises, even" and substitute the words "had arisen"
Page line 23	Strike the word "this" and substitute "the"
Page 24, line 20	Strike the words "the immediate fact" and substitute "there would be an immediate effect"
Page 25, line 10	Strike the word "as" and substitute "like"
72	
Page 25, line 13	Strike out the word "it" and substitute "and" and strike the word "status" and substitute the word "hiatus"
Page 25, line 17	Strike the word "definition" and substitute the word "exclusion"
Page 25, line 18	Strike the words "employer and employee" and substitute the words "railroad employers and employees"
Page 28, line 5	Strike the word "instance" and substitute the word "intent"
Page 30, line 5	Strike the words "would you" and substitute "we do"
Page 30, line 6	Strike the words "case is supported" and substitute the words "cases support this"
Page 30, line 18	Strike the word "if"
Page 32, line 8	Insert the word "not" between the words "will" and "be" and strike the second "and" appearing in the line.
Page 34, line 18	Change the figure 130,083,500 to the figure 130,803,500
Page 173, line 8	Change the written figure "fifty thousand barrels" to the numeral figure 500,000 barrels
Page 362, line 18	Change the figure "90" to the figure "9"

Wherefore the undersigned prays that the stenographic transcript in the above entiled matter be physically amended by the Trial Examiner in line with this motion.

(S.) C. PAUL BARKER,
(C. Paul Barker),
Chief Law Officer,
National Labor Relations Board Fifteenth Region.

73 May 24, 1948.

I certify that copies of this motion have been forwarded by registered mail to:

Baldwin, Haspel & Molony,
Richards Building,
New Orleans, Louisiana.

Chris Dixie,
Combs and Dixie, Attorneys,
Eighth Floor State National Bank Building,
Houston, Texas.

Milling, Godchaux, Saal and Milling,
Whitney Building,
New Orleans, Louisiana.

Aubry Hirsch, Attorney,
Triad Building,
Baton Rouge, Louisiana.

Kaufman and Anderson,
Kaufman Building,
Lake Charles, Louisiana.

Davidson & Davidson,
Attorneys at Law,
Lafayette, Louisiana.

(S.) C. PAUL BARKER.
(C. Paul Barker).

74 Before the National Labor Relations Board.

[Titles omitted]

ORDER FOR CORRECTIONS IN TRANSCRIPT OF TESTIMONY

75 A motion for correction of the record of testimony in the above-entitled matter having been made by counsel for the General Counsel, a copy of the said motion having been submitted to counsel for the respondent and the complainants, no objections to the granting of the motion having been raised by the parties, and an examination of the transcript having revealed that the proposed corrections, as well as others, should be made in order to conform said transcript to the actual proceedings,

It is hereby ordered that said motion be and it is hereby granted and made a part of the record herein.

It is further ordered that the transcript of testimony be corrected in accordance with the list of corrections attached hereto, embracing

corrections proposed by the motion of the counsel for the General Counsel and corrections proposed by the undersigned's own motion, and the Transcript Clerk of the National Labor Relations Board is hereby authorized and directed physically to enter said corrections on the face of the transcript of the testimony on file with the National Labor Relations Board.

Dated: June 23, 1948.

(S.) FREDERICK B. PARKS, II,
(Frederic B. Parkes, 2nd),
Trial Examiner.

Page	Line	Now reads	Correction
76	7	brief of proposed	brief or proposed
	17	the desire	they desire
	17	unless	to elicit
	17	that is	that is ratione materiae
	17	in this stage	at any stage
	18	case's answer	respondent's answer
	20	of Congress	of Congress to exclude this class of cases
	20	not law	no law
	21	I	we
	21	I	we
	22	September report	Senate reports
	22	11.6	1126
	22	include unfiar labor practices of employees of railroads	apply to unfair labor practices of labor organizations representing employees of railroads.
	22	Their	This
	22	not any abuses	no abuses
	22	arises, even	had arisen
	22	this committee	the committee
77	24	The immediate fact	There would be an immediate effect.
	25	as	like
	25	it illogical status	an illogical hiatus
	25	definition	exclusion
	25	employer and employee	railroad employers and employees

Page	Line	Now reads	Correction
28	5	instance	intent
30	5	would you	we do
30	6	case is supported	cases support this
30	18	If the charge	The charge
31	23	As far as paragraph 9; if	As far as paragraph 9 of
32	8	will be	will not be
32	8	indefinite and in	indefinite in
34	18	130,083,500	130,803,500
173	8	fifty thousand	500,000
317	5	The record so shows	The record may show your objection.
360	25	TRMEBLE	TREMBLE
362	18	90	9
371	14	out employees	our employees
439	2	to fine	to find
78 451	9	TRIAL EXAMINER PARKS	The Board so stipulates.
451	10	Stipulation is approved	TRIAL EXAMINER PARKES: The stipulation is approved.
459	18	Licour	Lacour
462	22	supend	suspend
466	9	the felt	they felt
472	8	none supervisory	non-supervisory
472	9	none supervisory	non-supervisory
479	21	The complaint alleging.	If the complaint alleged
479	25	My recollection of his testimony is that we also give	From my recollection, his testimony would also give.

	480	3	Section (b) 4,	Section 8 (b),
	480	4	subsection, heading B of 4, that it may go far afield	subsections (4) (A) and 4 (B), make take us far afield
	480	11	on in	on it, in
	480	12	the thing	the complaint
	492	6	to fine	to find
79	498	5	When we when	When we went
	507	12	conform	informed
	562	8	should	shall
	562	9	is cumulative	is not cumulative
	570	1	to take	we take
	570	14	Metamore	Meadowmoor
	571	24	have it clearly	have clearly
	572	3	secen	scene
	572	11	the right have the pickets	the pickets have the right

80 Page 577, lines 4 through 9 are stricken and the following substituted therefor:

The procedure before the Board to be followed from that point forward, with respect to the filing of exceptions to the Intermediate Report, the submission of supporting briefs, requests for oral argument before the Board, and related matters, is set forth in the Board's Rules and Regulations, Series 5, particularly in Section 203.46 and following sections. A summary of the more pertinent provisions will also appear at the foot of the Intermediate Report.

At Page 157, lines 13 and 14, the following is inserted:

Trial Examiner Parks:
Board's Exhibit 12 is received in evidence.

At various places throughout the record the name of the respondent appears as "International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 201, AFL." The record is to be corrected to read "International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 201, AFL," in all such instances.

Page 2 of the transcript of testimony is to be corrected to show the following appearance:

Monroe and Lemann, by Mr. Nicholas Kalalan, Whitney Bank Building, New Orleans, La., appearing on behalf of the complainant, Louisiana State Rice Milling Co., Inc.

(Affidavit omitted.)

* * * * * * * *

81 Before the National Labor Relations Board.

[Titles omitted]

ORDER TRANSFERRING CASES TO THE NATIONAL LABOR RELATIONS BOARD

82 A hearing in the above-entitled cases having been held before a duly designated Trial Examiner and the Intermediate Report of the said Trial Examiner, a copy of which is annexed hereto, having been filed with the Board in Washington, D. C.,

It is hereby ordered, pursuant to Section 203.45 of National Labor Relations Board Rules and Regulations, Series 5, that the

above-entitled matter be, and it hereby is, transferred to and continued before the Board.

Dated, Washington, D. C., July 9, 1948.

By direction of the Board:

LOUIS R. BECKER,
Acting Executive Secretary.

Note: Communications concerning compliance with the Intermediate Report should be with the Director of the Regional Office issuing the complaint.

Your attention is specifically directed to the concluding paragraph of the Intermediate Report in respect to your right to file exceptions, briefs, and to request oral argument. Please note that exceptions and brief must be filed as separate documents.

83 Before the National Labor Relations Board

[Titles omitted]

AFFIDAVIT AS TO SERVICE

84 In the Matter of:

DISTRICT OF COLUMBIA, ss:

I, Alfred F. Clarke, being first duly sworn, on oath, saith that I am one of the employees of the National Labor Relations Board, in the office of said Board in Washington, D. C.; that on the 9th day of July, 1948, I mailed postpaid, bearing Government frank, by registered mail, a copy of the Intermediate Report & Order Transferring Cases to the NLRB to the following-named persons, addressed to them at the following addresses:

Kaufman & Anderson, Attorneys, Att: E. R. Kaufman, Esquire, Kaufman Building, Lake Charles, Louisiana; Monroe & Lemann, Att: Nicholas Kalalan, Esquire, Whitney Bank Building, New Orleans, Louisiana; Baldwin, Haspel & Molony, Attorneys, Att: L. A. Molony and C. Meyer, III, Esqs., 1108 Richards Building, New Orleans, Louisiana; Combs & Dixie, Attorneys, Att: Chris Dixie, Esquire, State National Bank Building, Houston, Texas; Milling, Godchaux, Sill & Milling, Att: J. B. Miller, Esquire, 1122
85 Whitney Building, New Orleans, La.; Davidson & Davidson, Attorneys, Att: J. J. Davidson, Jr., Esquire, La Fayette, Louisiana.

Plain Mail To: Louisiana State Rice Milling Co., Abbeville, Louisiana; Kaplan Rice Mills, Inc., Kaplan, Louisiana; Loving Rice Mills, Crowley, Louisiana; Int'l. Rice Milling Co., Inc., Crowley, Louisiana; American Rice Milling Co., Inc., Crowley, Louisiana; Supreme Rice Mill, Crowley, Louisiana; Int'l. Bro. of Teamsters,

Chauffeurs, Warehousemen & Helpers of America, Local 201, AFL, 539 Jefferson Street, La Fayette, Louisiana; Missouri Pacific Lines, Att: Mr. George Stohlman, Richards Build-
86 ing, New Orleans, Louisiana; Southern Pacific Lines, Att: Mr. Henry McCall, 734 Whitnel Bldg., New Orleans, Louisiana; Mr. Aubrey Hirsch, 405 Triad Bldg., Baton Rouge, Louisiana.

(S.) ALFRED F. CLARKE.

Subscribed and sworn to before me this 9th day of July, 1948.

(S.) VINCENT E. THOMPSON,
Designated Agent for the National Labor Relations Board.

360 WA No 7-19-48 325P

Frank Kleiler, Executive Sec of the Board NLRB WA

Re Teamsters Chauffeurs Warehousemen and Helpers of America 15-CC-1, 15-CC-2, 15-CC-3 and 15-CC-4. It is the intention of the General Counsel to file exceptions and briefs in support thereof to the intermediate report of Trial Examiner Frederic B. Parks, 2nd, dated June 25 and received this office July 12. The general counsel also desires to present oral argument to the Board in view of issues not yet decided by the Board and respectfully requests permission to make such oral argument.

C. PAUL BARKER NLRB No
15-CC-1 15-CC-2 15-CC-3
15-CC-4 7 2 25 12

LL 330P

87 1948 Jul 26 PM 1 21.

National Labor Relations Board—
Rochambeau Bldg—

On behalf of complainants in cases Nos. 15-CC-1, 2, 3 and 4, undersigned counsel has deposited exceptions to IR-16 66 in United States Mail. Request additional fifteen days in which to file brief—

L A Molony C Meyer 1 1 1 E R Kaufman
N Callan—

National Labor Relations Board

N.L.R.B.

CMM:LP

7/27/48

John F. LeBus, Director,

NLRB

New Orleans.

Re: International Rice Milling Company, cases Nos. 15-CC-1, 2, 3 & 4, Advise all parties time for filing exceptions and briefs extended to August Thirteenth 1948

National Labor Relations Board.

88 Before the National Labor Relations Board, Division of Trial Examiners, Washington, D. C.

[Titles omitted]

Motion for Further Extension of Time for Filing Exceptions and Brief

To the National Labor Relations Board:

Now Comes respondent, Local 201, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of
89 America, AFL, respondent in the above entitled and numbered cause and respectfully requests an extension of twenty days in which respondent may file exceptions and supporting brief to the intermediate report of the Trial Examiner heretofore rendered in said cause, and transferred to the Board under date of July 9th, 1948, and served upon respondent July 11th, 1948.

In support of such motion respondent would show the Court that the record in said cause and the intermediate report of the Trial Examiner involve new and novel questions of law in connection with which counsel is unable to make adequate presentation within the time provided by Rule 203.46 of the Rules and Regulations of the National Labor Relations Board now effective.

Wherefore, respondent prays for an extension of time until August 20th, 1948.

(S.) CHRIS DIXIE,
(Chris Dixie),
COMBS & DIXIE,
Counsel for Respondent.

State National Building,
Houston, Texas.

A copy of the foregoing motion has been served upon Mr. Paul Barker, Board attorney, New Orleans, Louisiana; Baldwin, Haspel & Malone, attorneys-at-law, New Orleans, Louisiana; E. P Kaufman, Attorney-at-Law, Lake Charles, Louisiana, Davidson & Davidson, Attorneys-at-Law, Lafayette, Louisiana, counsel for adverse parties by depositing a copy thereof in the United States mails this the .... day of July, 1948.

(S.) CHRIS DIXIE,
(Chris Dixie).

90 National Labor Relations Board

N.L.R.B.

CCM:LP

7/29/48

John F. LeBus, Director,
NLRB
New Orleans.

Re: International Rice Milling Company, Cases Nos. 15-CC-1, 2, 3, 4, Advise all parties time for filing briefs extended to August Thirteenth 1948, Combs and Dixie already so advised

NATIONAL LABOR RELATIONS BOARD.

National Labor Relations Board

N.L.R.B.

CM:LP

7/29/48

Combs & Dixie
Att: Chris Dixie, Esq.,
807-12 Station National Bldg.,
Houston, Texas.

Reurletter International Rice Milling Company, Cases Nos. 15-CC-1, 2, 3, 4, Time for filing exceptions and briefs extended to August Thirteenth 1948.

NATIONAL LABOR RELATIONS BOARD.

91 Before the National Labor Relations Board

[Titles omitted]

EXCEPTIONS TO INTERMEDIATE REPORT

92 The undersigned, counsel for complainants, in accordance with the rules and regulations, Section 203.46, Series 5, effective August 22, 1947, hereby except, in the following particulars, to the Intermediate Report of the Honorable Frederic B. Parkes, II, Trial Examiner, in the above entitled and numbered proceedings, issued on the 25th day of June, 1948 and transferred to the National Labor Relations Board by order of the Board, dated July 9th, 1948:

1

To the statement and recommendation by the Trial Examiner that the respondent should not be restrained from all picketing of the railroads, and the railroad properties and rights-of-way. (P. 20, IR-1666.)

2

To the failure of the Trial Examiner to include in the recommended order a specific prohibition against the picketing by respondent of the railroad properties, team tracks, and railroad rights-of-way leading into the rice mills. (P. 22, IR-1666.)

Respectfully submitted,

BALDWIN, HASPEL & MOLONY,
By L. A. MOLONY,
CONRAD MEYER, III,
KAUFMAN & ANDERSON,
By E. R. KAUFMAN,
MONROE & LEMANN,
By NICHOLAS CALLAN.

167 WA No 8-11-48 4-52 PM

Frank Klieler Executive Secty. of the Board NLRB WA

93 Re Intl. Brotherhood of Teamsters Chauffeurs Warehousemen and Helpers and International Rice Milling Company, 15-CCI through 15-CC4 extension has been granted to August 13 to file exceptions and brief exceptions will be filed timely but enforced absence from office in settlement negotiations of the four salant and salant cases prevents completion of briefs in time. Request additional extension to file briefs in support of exception to August 20.

C. PAUL BARKER NLRB No
15-CC1 15-CC4 13 20

RROR 4-55 PM

File in Informal File

National Labor Relations Board

N.L.R.B.

CCM:LP

8/13/48

Baldwin, Haspel & Moloney,
Att: Lawrence A. Molony & Conrad Meyer, III Esqs.,
Richards Building,
New Orleans 12, Louisiana.

Monroe & Lehmann,
Att: Nicholas Callan, Esq.,
Whitney Building,
New Orleans 12, Louisiana.

94 John F. LeBus, Director, and
C. Paul Barker, Reg. Atty.,
NLRB
New Orleans.

Kaufman & Anderson,
Att: E. R. Kaufman, Esq.,
Kaufman Building,
Lake Charles, Louisiana.

Combs & Dixie,
Att: Chris Dixie, Esq.,
807-12 State National Bldg.,
Houston, Texas.

Re: International Rice Milling Co., 15-CC-1, 2, 3, and 4, Time for filing briefs only extended to August Twentieth 1948.

NATIONAL LABOR RELATIONS BOARD.

95 Before the National Labor Relations Board, Fifteenth Region

[Title omitted]

EXCEPTIONS TO THE INTERMEDIATE REPORT

The undersigned, Chief Legal Officer for the Fifteenth Region, on behalf of the General Counsel of the National Labor Relations Board, in accordance with the Rules and Regulations, Section 203.46, Series 5, effective August 22, 1947, hereby files the following exceptions to the Intermediate Report of the Honorable Frederic B. Parkes, II, Trial Examiner, in the above entitled and numbered proceedings issued on the 25th day of June, 1948, and transferred to

the National Labor Relations Board by order of the Board dated July 9, 1948:

1. To the finding of the Trial Examiner as set forth on Page 17, Footnote 24, that it is "unnecessary to determine . . . the picketing of the railroads in the early stages of the strike were violative of the Act."

2. To the failure of the Trial Examiner to find specifically on Page 17 of the report and later in the report that the picketing on public thoroughfares extending across the tracks of the Missouri Pacific and Southern Pacific Railroad in the early stages of
96 the strike were violative of Section 8 (b), Subsections (4) (A) and (B) of the Act, and that the picketing per se was a violation of the statute regardless of when or how it occurred.

3. To the failure of the Trial Examiner to find on page 18 of the report after the paragraph ending on line 35 that the respondent did, by the picketing across and in the vicinity of the tracks of the Southern Pacific and Missouri Pacific railroads in the early days of the strike, induce and encourage the employees of the Southern Pacific and Missouri Pacific, neutrals to the primary dispute between respondent and the complainants, to engage in a strike or concerted refusal in the course of their employment to . . . transport or otherwise handle or work on any goods, articles, material, or commodities or to perform any services with the avowed object (1) of "forcing or requiring" the Southern Pacific and Missouri Pacific "to cease . . . handling, transporting, or otherwise dealing in the products of the complainants and (2) of "forcing or requiring" the complainants "to recognize or bargain with" the respondent as "the representative of" the complainants' employees at a time when the respondent was not a certified representative of such employees.

4. The failure of the Trial Examiner to conclude that the picketing in the vicinity of and across the tracks of the Southern Pacific and the Missouri Pacific Railroads in the early days of the strike by the respondent violated Section 8 (b), subsections (4) (A) and (B) of the Act.

5. To the finding of the Trial Examiner that he does not agree that the picketing is inseparable from the unlawful conduct as appears on Page 20, Lines 36 to 53, inclusive; and to the finding of the Trial Examiner that the threats and acts of violence were episodic and isolated and the picketing did not occur in such a
97 background of violence and was not so enmeshed with acts of violence that one cannot be separated from the other.

6. To the finding of the Trial Examiner on Page 20 at Lines 48 to 53 that he will not recommend that respondent be restrained from all picketing of the railroads.

7. To the failure of the Trial Examiner to recommend that all picketing of the railroad property be restrained.

8. To the failure of the Trial Examiner to include in his recommendations appearing on Page 22 of the Intermediate Report, after the words "inducing and encouraging" on line 3, the following words, "by communications, warnings, threats, mass picketing or other picketing on or in the immediate vicinity of the property of the railroads", and his failure to include the same words after the words "inducing or encouraging" on line 19.

9. To the failure of the Trial Examiner to require that respondent notify in writing each of its members, the Brotherhood of Railroad Trainmen, Morgan Lodge 317, the Missouri Pacific and Southern Pacific Railroads, and each of the complainants, and post a copy of the said notice in the vicinity of any and all picket lines established by respondent in the vicinity of the complainants' mills.

10. To the failure of the Trial Examiner to include in his recommended notice in paragraph 3 thereof after the words "induce or encourage" the words "by warnings, threats, mass picketing or other picketing on or in the immediate vicinity of the property of the railroads.

(S.) C. PAUL BARKER,
(C. Paul Barker)
Chief Legal Officer, National Labor Relations Board, Fifteenth Region.

Dated August 12, 1948.

98

Certificate

I certify that I have caused a copy of these Exceptions to be served by registered mail this date upon the following:

International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local 201, AFL, 203 First Street, Crowley, Louisiana; Baldwin, Haspel & Molony, Law Offices, Richards Building, New Orleans, Louisiana; Aubrey Hirsch, Esquire, Triad Building, Baton Rouge, Louisiana; Kaufman and Anderson, Kaufman Building, Lake Charles, Louisiana; J. J. Davidson, Esq., Davidson & Davidson, Lafayette, Louisiana; Milling, Godchaux, Saal & Milling, Attn: Mr. J. B. Miller, Whitney Building, New Orleans, Louisiana.

(S.) RICHARD C. KEENAN,
(Richard C. Kennan),
Attorney, National Labor Relations Board, Fifteenth Region.

August 12, 1948.

99 August 30, 1948.

National Labor Relations Roard,
Washington, D. C.

In re: International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local 201, and International Rice Milling Company, Inc. Cases Nos. 15-cc-1, 2, 3, and 4.

GENTLEMEN:

We have previously forwarded a brief in the above matter in connection with our exceptions to the Examiner's Report. The general counsel has requested oral argument. We would like to participate in this argument and would appreciate your advising us when the case is set for hearing before the Board.

Yours very truly,

(S.) L. A. MOLONY.
(L. A. Molony).

LAM:law

100 Before the National Labor Relations Board

Case No. 15-CC-1

In the Matter of:
International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 201, AFL,

and

The International Rice Milling Co., Inc.; American Rice Milling Co., Inc.; Louisiana State Rice Milling Co., Inc.; and Joseph Dore, Sr., doing business as Supreme Rice Mill.

Case No. 15-CC-2

In the Matter of:
International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 201, AFL,

and

Loving Rice Mills.

Case No. 15-CC-3

In the Matter of:
International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 201, AFL,

and

Louisiana State Rice Milling Co., Inc.

Case No. 15-CC-4

In the Matter of:

International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 201, AFL,

and

Kaplan Rice Mills, Inc.

DECISION AND ORDER

101 On June 25, 1948, Trial Examiner Frederic B. Parkes, 2nd, issued his Intermediate Report in the above-entitled proceeding, finding that the Respondent had engaged in and was engaging in certain unfair labor practices and recommending that it cease and desist therefrom and take certain affirmative action, as set forth in the copy of the Intermediate Report attached hereto. Thereafter, the complainants and the General Counsel filed exceptions and supporting briefs; none were filed by the Respondents. The requests for oral argument made by the Respondent and the General Counsel are hereby denied, inasmuch as the record and the briefs, in our opinion, adequately present the issues and the positions of the parties.[1]

The Board has reviewed the rulings of the Trial Examiner made at the hearing, and finds that no prejudicial error was committed. The rulings are hereby affirmed. The Board has considered the Intermediate Report, the exceptions and briefs, and the entire record in the case, and hereby adopts the findings, conclusions, and recommendations of the Trial Examiner, but only insofar as they are consistent with this Decision and Order.

1. The Trial Examiner found that the Respondent violated Section 8 (b) (4) (A) and (B) of the Act by picketing sidings of certain interstate railroads, subsidiaries of the Missouri Pacific and Southern Pacific, and by threatening employees of those railroads with violence for dishonoring its picket lines. We cannot
102 agree with this finding. The relevant portion of Section 8 (b) (4) (A) and (B) of the Act provides that it shall be an unfair labor practice for a labor organization to induce or encourage the "employees" of any "employer" to engage in a secondary boycott. However, Section 2 (2) and (3) of the Act

[1] The Railway Labor Executive Association also requested oral argument as *amicus curiae*. Its request is likewise denied. Although the Association has not presented its position in this matter to the Board, it was offered an opportunity to do so when the Board on August 2, 1948, granted its request for permission to file a brief herein.

provide in part that the term "employer" should not include "any person subject to the Railway Labor Act," and that the term "employee" should not include any individual "employed by an employer subject to the Railway Labor Act."

In view of the clear language of the amended Act, and in the absence of any indication in the legislative history that Congress intended a different result, we must conclude that none of the Respondent's aforesaid activities induced or encouraged *employees* of an *employer* to engage in a secondary boycott, within the meaning of Section 8 (b) (4) (A) or (B). Our conclusion in this respect is buttressed by the separate treatment that Congress has historically accorded railroads, their employees, and the organizations of their employees. In our opinion, a sudden contrary intent on the part of the Eightieth Congress should not be inferred in the absence of a clear expression in the statute that such was the Congressional purpose. We find no suggestion of such a clear expression here. Indeed, the fact that the 1947 amendments changed the definition of employee by excluding persons "employed by an employer subject to the Railway Labor Act", whereas no such exclusion was contained in the Wagner Act before amendment is, if anything, an expression of an opposite intention.

2. The Trial Examiner also found that the Respondent violated Section 8 (b) (4) (A) and (B) by attempting to prevent a Sales House truck from entering the Kaplan mill on October 21, 1947.

103 We do not agree with this finding. The Respondent's activities arose out of the *primary* picketing of the Kaplan mill, and were carried out in the immediate vicinity of that mill. Violence on the picket line is not to be condoned, but violence does not convert *primary* picketing into *secondary* action within the meaning of Section 8 (b) (4) (A) or (B).[2] As the complaint herein does *not* allege restraint and coercion of employees in violation of Section 8 (b) *(1) (A)*, we are not called upon to decide whether the Respondent's conduct toward the employees of the Sales House constituted a violation of that Section.

In view of the foregoing, we shall dismiss the entire complaint.

ORDER

Upon the entire record in the case and pursuant to Section 10 (c) of the National Labor Relations Act, as amended, the National Labor Relations Board hereby orders that the complaint issued herein against the Respondent, International Brotherhood of

---

[2] See *Matter of Oil Workers International Union, Local Union 346 (CIO)* and *The Pure Oil Company*, Case No. 8-CC-4, issued June 17, 1949.

Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 201, AFL be, and it hereby is, dismissed.

Signed at Washington, D. C., this 20 day of June, 1949.

PAUL M. HERZOG, *Chairman.*
JOHN M. HOUSTON, *Member.*
JAMES J. REYNOLDS, JR., *Member.*
ABE MURDOCK, *Member.*
[SEAL.] NATIONAL LABOR RELATIONS BOARD.

104 INTERMEDIATE REPORT

Before the National Labor Relations Board, Division of Trial Examiners, Washington, D. C

Case No. 15-CC-1

In the Matter of:
International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 201, AFL,

and

The International Rice Milling Co., Inc.; American Rice Milling Co., Inc.; Louisiana State Rice Milling Co., Inc.; and Joseph Dore, Sr., doing business as Supreme Rice Mill.

Case No. 15-CC-2

In the Matter of:
International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 201, AFL,

and

Loving Rice Mills.

Case No. 15-CC-3

In the Matter of:
International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 201, AFL,

and

Louisiana State Rice Milling Co., Inc.

105 Case No. 15-CC-4

In the Matter of:

International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 201, AFL,

and

Kaplan Rice Mills, Inc.

C. Paul Barker, Esq., W. P. Alexander, Esq., Andrew P. Carter, Esq., and *Victor G. Hess, Esq.*, for the General Counsel.

Baldwin, Haspel & Molony, by *Laurence A. Molony, Esq.*, and *Conrad Meyer, III, Esq.*, of New Orleans, La., for Kaplan, Loving, International, American, and Supreme.

E. R. Kaufman, Esq., of Lake Charles, La., and *Monroe and Lemann*, by *Nicholas Kalalan, Esq.*, of New Orleans, La., for Louisiana State.

Milling, Godchaux, Saal & Milling, by *J. B. Miller, Esq.*, of New Orleans, La., for the Missouri Pacific.

Davidson & Davidson, by *J. J. Davidson, Esq.*, of Lafayette, La., for the Southern Pacific.

Chris Dixie, Esq., of Houston, Tex., and *Aubrey Hirsch, Esq.*, of Baton Rouge, La., for the respondent.

STATEMENT OF THE CASE

Upon charges and amended charges duly filed by The International Rice Milling Co., herein called International; American Rice Milling Co., Inc., herein called American; Louisiana State Rice Milling Co., Inc., herein called Louisiana State; Joseph
106 Dore, Sr., doing business as Supreme Rice Mill, herein called Supreme; Loving Rice Mills, herein called Loving; and Kaplan Rice Mills, Inc., herein called Kaplan,[1] and in accordance with an order of the General Counsel of the National Labor Relations Board, herein called the General Counsel,[2] dated January 23, 1948, consolidating the four cases, the General Counsel, by the Acting Regional Director for the Fifteenth Region (New Orleans, Louisiana), issued a complaint dated January 27, 1948, against

[1] International, American, Louisiana State, Supreme, Loving, and Kaplan are at times referred to collectively herein as the complainants.

[2] This designation will also be used to refer to the attorneys on the staff of the General Counsel who presented the case in his behalf.

International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local 201, AFL, herein called the respondent, alleging that the respondent had engaged in and was engaging in unfair labor practices affecting commerce within the meaning of Section 8 (b), subsections (4) (A) and (4) (B), and Section 2 (6) and (7) of the National Labor Relations Act, as amended June 23, 1947, herein called the Act. Copies of the charges, the complaint, and notice of hearing were duly served upon the respondent and the complainants.

With respect to the unfair labor practices, the complaint, as amended,[3] alleged in substance that (1) the respondent, during the course of a strike of the complainants' mills, induced and encouraged the employees of Texas and New Orleans Railroad, hereinafter called the Southern Pacific, of New Orleans, Texas and Mexico Railroad, hereinafter called the Missouri Pacific,[4] and The Sales and Service House, hereinafter called the Sales House, to engage in a strike or concerted refusal in the course of their employment to transport or otherwise handle, or work on, goods, articles, 107 and commodities shipped to or from the complainants, or to perform services in connection with the shipment of such goods, articles, and commodities; (2) the object of such conduct on the part of the respondent was to force or require the Southern Pacific, Missouri Pacific, and Sales House to cease using, handling, transporting, or otherwise dealing in the products of, or to cease doing business, with the complainants and to force or require the complainants to recognize or bargain collectively with the respondents as the representative of the employees of the respective complainants; (3) no labor dispute existed at the dates material herein between the Southern Pacific, the Missouri Pacific, and the Sales House and their respective employees; and (4) by the foregoing acts, the respondent engaged in unfair labor practices within the meaning of Section 8 (b), subsections (4) (A) and (4) (B), of the Act.

On March 11, 1948, the respondent filed its answer, in part admitting and in part denying the allegations in the complaint, but denying that the respondent had engaged in any unfair labor practices. As special defenses, the respondent alleged that (1) its strike and picketing for organizational and recognition purposes were exercises of its constitutional right of freedom of speech and of assembly under the first and fifth amendment of the Constitution

[3] During the course of the hearing, the complaint was amended as to minor details.

[4] The Southern Pacific and the Missouri Pacific are sometimes collectively referred to herein as the railroads.

of the United States, (2) the complainants, against whom the primary strike and picketing were directed, "have no status to institute proceedings complaining of secondary boycott or secondary picketing which under the Act as amended may be filed by persons who are neutrals to the labor dispute," and (3) the Southern Pacific and the Missouri Pacific are common carriers by rail engaged in interstate commerce, are subject to the jurisdiction of the Railway Labor Act, and are not "employers" within
108 the meaning of the Act, with the consequence that the complaint's allegations of violations of the Act are insufficient in law.

Pursuant to notice, a hearing was held on March 25, 26, and 27, 1948, at Crowley, Louisiana, before Frederic B. Parkes, 2nd, the undersigned Trial Examiner duly designated by the Chief Trial Examiner. The General Counsel, the complainants, the Missouri Pacific, the Southern Pacific, and the respondent were represented by counsel and participated in the hearings. Full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues was afforded all parties.

At the outset of the hearing, argument was held upon two of the special defenses urged in the respondent's answer, namely, (1) that the Missouri Pacific and the Southern Pacific were not employers within the meaning of the Act and that accordingly the respondent could not have violated the Act by encouraging their employees to engage in a secondary boycott and (2) that the complaints had "no status" to institute the proceedings. Insofar as these defenses were deemed to be motions to dismiss the complaint, they were denied. At the conclusion of the hearing the undersigned granted a motion by the General Counsel to conform the pleadings to the proof as to dates, spelling, and minor variances. Upon the conclusion of the hearing, the undersigned advised the parties that they might argue before, and file briefs or proposed findings of fact and conclusions of law, or both, with the Trial Examiner. The parties waived oral argument but briefly stated their positions. Thereafter, counsel for the complaints and for the General Counsel filed briefs with the undersigned.

109 Upon the entire record in the case and from his observation of the witnesses, the undersigned makes the following:

Findings of Fact

I. The Parties

International Rice Milling Co., Inc., a Louisiana corporation with its principal office and plant at Crowley, Louisiana, operates a rice mill. In connection with its operations during 1946, it purchased 153,101 barrels of rough rice, of which approximately 9 percent was

received from points outside the State of Louisiana. During the same year, it processed 16,935,900 pounds of clean rice, of which approximately 77 percent was shipped to points outside the State of Louisiana.

American Rice Milling Co., Inc., a Louisiana corporation with its principal office and plant at Crowley, Louisiana, is engaged in the operation of a rice mill. In the course and conduct of its operations during 1946, it purchased 230,135 barrels of rough rice, of which approximately 7.31 percent was received from points outside the State of Louisiana. During the same year, it processed 24,855,668 pounds of rice, of which 19,258,100 pounds were shipped to points outside the State of Louisiana.

Louisiana State Rice Milling Co., Inc., a Louisiana corporation with its principal office at Abbeville, Louisiana, is engaged in the milling of rice and operates mills at Abbeville, Crowley, and Rayne, Louisiana. In connection with the operation at its three plants during 1946, it purchased 1,187,327 barrels of rough rice, of which approximately 20 percent was received from points outside the State of Louisiana. During the same year, it processed 130,803,500
110 pounds of rice, of which approximately 90 percent was shipped to points outside the State of Louisiana.

Joseph Dore, Sr., doing business as Supreme Rice Mill has his principal office at Crowley, Louisiana, where he is engaged in the operation of a plant for milling rice. In connection with his operations in 1946, he purchased 300,000 barrels of rough rice of which approximately 20 percent was received from points outside the State of Louisiana. During the same year, he processed 33,000,000 pounds of rice, of which approximately 95 percent was shipped to points outside the State of Louisiana.

Monte Loving, an individual doing business as Loving Rice Mills, has his principal office at Crowley, Louisiana, where he operates a plant for milling rice. In connection with his operations during the year of 1946, he purchased 180,247 barrels of rough rice, of which 47,204 barrels were received from points outside the State of Louisiana. During the same year, he processed 20,000,000 pounds of rice, of which approximately 98 per cent was shipped to points outside the State of Louisiana.

Kaplan Rice Mills, Inc., a Louisiana corporation with its principal office and plant at Kaplan, Louisiana, is engaged in the milling of rice. In connection with its operations during the year 1946, it purchased 500,000 barrels of rough rice, of which approximately 50 per cent was received from points outside the State of Louisiana. During the same year, it processed 50,000,000 pounds of rice, of which approximately 60 percent was shipped to points outside the State of Louisiana.

Texas and New Orleans Railroad, a Texas corporation and an operating subsidiary of the Southern Pacific Railroad, is en-
111 gaged in the business of transporting freight and passengers in the State of Louisiana. In connection with its business, the Texas and New Orleans Railroad, herein called the Southern Pacific owns and operates railroad equipment, rights-of-way, tracks, switches, public sidings, and public team tracks in and around Crowley, Rayne, and Abbeville, Louisiana. It transports and handles goods, articles, and commodities shipped to and from the respective plants of International, American, Louisiana State, Supreme, and Kaplan, at Crowley, Rayne, Abbeville, and Kaplan, Louisiana, for and on behalf of these companies and others.

Guy A. Thompson, a resident of St. Louis, Missouri, is a duly qualified Trustee of the property of the New Orleans, Texas and Mexico Railroad Company by virtue of an order of the U. S. District Court for the Eastern Division, Eastern Judicial District of Missouri in the proceedings entitled "In the Matter of Missouri Pacific Railroad Company, Debtor," Docket No. 6935. As such, Thompson operates the properties of the New Orleans, Texas and Mexico Railroad, herein called the Missouri Pacific. The Missouri Pacific owns and operates railroads, railroad equipment, rights-of-way, tracks, switches, public sidings, and public team tracks in and around Crowley, Louisiana. It transports and handles goods, articles and commodities shipped to and from the respective plants of International, American, Louisiana State, Supreme, and Loving, at Crowley, Louisiana, for and on behalf of these companies and others.

Paul T. Doerle, Pauline A. Davant, Thelma B. Doerle, Frances C. Doerle, Harold E. Doerle, Paul A. Doerle, and Robert L. Doerle are co-partners doing business as The Sales and Service House in New Iberia, Louisiana, and are engaged in the business,
112 among others, of selling feed and grain. The Sales House purchases and handles goods, articles, and commodities from Kaplan.

International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 201, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the complainants. It has never been certified by the Board as the statutory representative of any employees of the complainants.

II. The unfair labor practices[5]

A. The rice milling industry in general

Crowley, Louisiana, is the center of the rice industry of the state, and is the site of 13 or 14 rice mills. Rice, which is planted in the spring months from March to May, is harvested in September, October and November. During these fall months, the rice mills work at peak capacity, drying, milling, and packaging rice. Because of limited storage facilities in most mills, it is necessary during the peak season for the rice to move as rapidly as possibly through the milling process. Some mills cease production operations at the end of the fall peak season; others carry on such work until about March when they shut down until summer. In the summer, some mills resume limited operations. The milling industry is thus seasonal in nature.

B. Organizational activities of the respondent

The respondent, a general local admitting to membership eligible employees of the rice mills and other industries in Crowley
113 and surrounding area, commenced its organizational activities among employees of the complainants in November 1946. The campaign was directed locally by Milton G. J. Broussard, president and business agent of the respondent, and by Paul Kuhns, who was secretary and treasurer of a local of International Brotherhood of Teamsters, Chauffeurs, Warehousemen and helpers of America, A.F.L., in Baton Rouge, Louisiana, and who came to Crowley to assist in the organization and campaign of the respondent.[6] In February 1947, the respondent by letter requested each of the complainants to recognize it as the collective bargaining representative of the employees of each complainant.[7] Thereafter, vari-

---

[5] Unless otherwise noted, the findings in this section are based upon substantially uncontroverted evidence.

[6] A letter sent by the respondent to Louisiana State in February 1947, was signed by Kuhns as "Secretary Treasurer Local #5 and business Manager Local #201." The record establishes and it is found that Broussard and Kuhns were agents of the respondent.

[7] Harvey E. Fuselier, manager of Supreme denied that he had ever received any communications from the respondent and testified that if Joseph Dore, Sr., owner of Supreme, had received any letters from the respondent, he would have given them to Fuselier and that Dore had denied receiving any such correspondence. Dore did not testify. Kuhns, on the other hand, stated at the hearing that the

ous negotiations ensued between the respondent and the respective complainants. In general, the complainants requested that the respondent establish proof of its claim to majority representation. With Kaplan, negotiations proceeded to the point that Kaplan agreed to accept a card check as a means of establishing the respondent's majority status, but no further steps were taken by the respondent. With Louisiana State, the respondent agreed to enter into a card check, which was held in late February or early March, 1947, but failed to establish the respondent's majority status. None
114 of the complainants ever recognized the respondent as the collective bargaining representative of their employees or entered into a contract with it. The respondent has never been certified by the Board as the statutory representative of the employees of any complainant.

C. The strike and picketing by the respondent

1. At the mills of the complainants

On September 3, 1947, the respondent instituted a strike, pursuant to the authorization previously given by its membership at a regular meeting, at International and American and at the Crowley mill of Louisiana State. On the same day, the respondent sent the following telegram to International, American, and Louisiana State:

> This is to officially advise you that undersigned committee has been selected by a majority of your employees to represent them in the present work stoppage and all matters pertaining to collective bargaining. We stand ready to meet you at your convenience and can be contacted at our office by telephone number 559.
>
> LEO CARTER,[8]
> MILTON G. J. BROUSSARD,
> PAUL KUHNS.

---

respondent requested recognition from each of the complainants. Copies of these letters were not produced at the hearing. On the issue of request for recognition, other mill owners at first denied that the respondent made such requests but later corrected their testimony and stated that the requests had been made. Although this conflict in evidence is not particularly vital to the determination of the issues of the case, upon the entire record, the undersigned believes and finds that the respondent did in fact request statutory recognition of Supreme.

[8] It appears that Carter was also agent of the respondent, participating in the organizational and strike activities of the respondent early in September 1947.

On September 4 and 6, 1947, respectively, the respondent extended the strike to Louisiana State's mills at Rayne and Abbeville. Supreme and Loving were struck on September 5 and 17. Less than a majority of the non-supervisory production and maintenance em-
ployees of each mill participated in the strike and all mills
115 continued to operate throughout the strike. The Respondent established picket lines at the struck mills, patrolled by between 1 and 4 strikers. From the outset of the strike at some mills, the picket lines on public thoroughfares extended across tracks of the Missouri Pacific and Southern Pacific. Within a short time after the strike began, the pickets carried placards each bearing one of the following legends and the name of the respondent:

This is a picket line. Respect it. Do not cross it.
This job is unfair to Local 201, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, A. F. L.
This job unfair to organized labor.
High cost low pay blues.

2. At the railroads

Although the picket lines at some mills crossed the tracks of the Missouri Pacific and Southern Pacific servicing some of the mills, such activities in September and early October did not deter the railroad crews from performing their duties in switching cars to and from the mills. Despite the strike, the mills continued substantially normal operations.

On September 15, 1947, the respondent sent the following letter to Andrew G. Lacour, a conductor for the Southern Pacific and chairman of the grievance committee of the Brotherhood of Railroad Trainmen, Morgan Lodge 317, hereinafter called the Brotherhood, to which many of the employees of the railroad belonged:

116 This is to notify you after a duly conducted strike ballot, the workers of the following Rice Mills who are members of our organization voted unanimously to strike.
The Mills now affected are:

La. State Rice Milling Co., Inc., Abbeville, La.
La. State Rice Milling Co., Inc., Rayne, La.
La. State Rice Milling Co., Inc., Crowley, La.
Liberty Rice Mill, Kaplan, La.
Simons Warehouse ? Kaplan ? La.
Supreme Rice Mill, Crowley, La.
International Rice Mill, Crowley, La.

We request you to consider this official from the International Brotherhood of Teamsters, Cheauffers [*sic*] Warehousemen & Help-

ers of America (A. F. of L.) Local #201 and are asking you to respect our Picket Lines at the above mentioned Mills.

The purpose of the strike is to gain recignition [*sic*] for the purpose of bargaining collectiveiy and was the last step we could take after management failed to bargain collectively.

Fraternally you's,

M. G. J. BROUSSARD,
Pres. & Business Agent,
Teams. Local Union #201.

About October 13, 1947, the tactics of the strikers changed in that as the trains approached the picket lines at the struck mills, the pickets would gather in a cluster on the railroad track, holding one of the placards toward the engine. When the engine
117 approached within a few feet of the group, they dispersed and allowed the train to perform the switching operations.

On October 13, 1947, Broussard telephoned Lacour and said, according to the latter's credible testimony, "Mr. Lacour, if your men don't respect our picket lines, they are liable to be shot with buckshot." On the following day, Lacour and Raymond J. Boudreaux, a switchman for the Southern Pacific, and Hugh B. Swanzey, trainmaster for the Southern Pacific, went to Broussard's office at Crowley to discuss the strike situation. In response to Lacour's question, Broussard admitted that he had telephoned Lacour the night before and had made the statements related above. According to Lacour, Broussard "clarified the statement by saying that he could not be responsible for the men. As far as he was concerned, he just wanted to protect us and tell us that the men were just a little bit restless over the fact that we were switching and spotting cars." Swanzey testified credibly that "during the course of the conversation, there was mentioned dynamite and Mr. Lacour asked Mr. Broussard what he meant by that. Mr. Broussard told Mr. Lacour that the men were evidently prepared," although "Mr. Broussard told Mr. Lacour he had been instructed to hold violence to a minimum." Swanzey further testified that "Mr. Broussard said that all he could do, to any member of his organization, if there was any violence, would be to suspend that member." [9]

118 During the evening of October 15, 1947, Lacour received 3 telephone calls from persons who did not disclose their identity. The first two calls were to the effect, "Don't pick up any more cars." The message of the third call, made at 2 a. m., was

[9] The findings in this paragraph are based upon the credible testimony of Lacour and Swanzey. In regard to these conversations,

"If our pickets won't stop you, dynamite will." Lacour informed the train crews of the railroads of these threats and the Brotherhood instructed its membership that in performing their duties, each member should use his own discretion in determining whether it was safe to cross the picket lines.

About October 15, 1947, the respondent placed a picket line on the passing tracks of the Southern Pacific at Kaplan, Louisiana, serving Kaplan and two other business concerns. The picket line was be-

---

Broussard testified as follows on direct examination by counsel for the respondent:

Q. Did you hear the testimony of Mr. Lacour, relative to a telephone conversation with you in your office?

A. That's right.

Q. Was the testimony of Mr. Lacour substantially correct?

A. Substantially, with several exceptions. I don't think all of the statements was clear as far as I am concerned.

Q. Did you at any time threaten Mr. Lacour or his people?

A. No, I relayed a message of a threat made over the phone to me to Mr. Lacour and his men.

Q. When Mr. Lacour came to see you the next day at your office, together with Mr. Boudreaux, and Mr. Swanzey, did you make it plain to Mr. Lacour at that time so he could understand that you were making no threats whatever to him?

A. I think my message was very clear.

Q. You say you never did threaten him?

A. That's right.

Boudreaux testified that on October 15, "The conversation was, [Lacour] just asked him to remove his picket line because we were not interested in the strike and he wouldn't agree. That was about all of the conversation." According to Boudreaux, there was no mention of the threats made the night before. Boudreaux did not impress the undersigned as an especially reliable witness. Inasmuch as his testimony conflicts with that of both Lacour and Broussard, it is clear that Boudreaux did not recall all the details of the conversation on October 15. In view of the fact that about October 13 and thereafter the respondent changed its picketing tactics and the pickets began to cluster in groups on the tracks of the Southern Pacific and Missouri Pacific when trains approached, as well as the undersigned's observation of the witnesses, the undersigned does not credit Broussard's testimony that he did not make threats of violence to Lacour. Rather, upon the entire record, the testimony of Lacour and Swanzey is credited on this issue.

tween 300 and 400 feet west of Kaplan's property. However,
119 none of Kaplan's employees was on strike.[10] The train crews of the Southern Pacific refused to pass the picket line and service Kaplan.

The pickets at the Abbeville plant of Louisiana State also began to gather in groups on the Southern Pacific spur tracks leading to the mill when trains were in the yards about October 13. On October 15, as a train approached to enter the plant of Louisiana State at Abbeville, a picket came from the group on the track and gave a note to the engineer of the train. The crew refused to cross the picket line. About the same time, the respondent engaged in similar picketing activities on the Southern Pacific's spur tracks leading to the Rayne plant of Louisiana State and the train crews refused to enter the mill.

At Crowley on October 15, 1947, the respondent also intensified its picketing activities by placing groups of pickets, ranging in number between 15 and 30, at various points on tracks of the Southern Pacific and Missouri Pacific servicing the mills involved herein. In some instances, the groups of pickets on the tracks were in the immediate vicinity of the mill being picketed. But in others, the cluster of pickets was some distance removed. For example, the group picketing the Missouri Pacific tracks at Supreme was 150 yards from Supreme's property and was effective in stopping
120 the train crew from performing switching for Louisiana State, whose mill was some 400 yards from the picket cluster. The train crews refused to pass the picket lines at Crowley on October 15. Although the train crews were permitted by an arrangement between the railroads and the respondent to enter the struck mills and remove loaded cars on October 16, the crews thereafter refused to cross the picket line for the duration of the picketing. A further consequence of their refusal to pass the picket lines was the cessation of service to mills who were not involved in the labor dispute but whose plants were located at points on the Missouri Pacific and

[10] The complaint alleged that the respondent called a strike of the employees of Kaplan on or about September 5, 1947. The record fails to sustain this allegation. Clarence J. Montgomery, Jr., vice-president of Kaplan, testified credibly and without substantial contradiction that none of his employees participated in a strike in September or October 1947, but that pickets of the respondent appeared at the tracks of the Southern Pacific servicing Kaplan and other industries about the middle of October. The pickets carried various signs, one being "This job unfair to" the respondent. They did not picket the plant of Kaplan proper until about October 22, when the respondent was enjoined from picketing the railroads by the Louisiana State District Court.

Southern Pacific tracks between the struck and picketed mills.[11] The Missouri Pacific and Southern Pacific rendered services to the struck mills thereafter by operating trains manned by supervisors and officials who took over the operation of the trains at the point where the picket lines crossed the tracks, entered the mills, performed the necessary switching operation, removed loaded cars, and then returned the trains to the operating crews after passing the picket lines.[12] In some instances by special arrangement with the respondent, the crews were permitted to pass the picket lines to render services to companies not involved in the dispute.[13] Two
131. of the mills obtained cars by moving them into their mills themselves from the point at which the pickets crossed the tracks and at which the train crews left the car.

From October 16 until the picketing of the railroads ceased about October 22, some of the complainants loaded their finished products by truck into railroad freight cars on "team tracks," which are siding tracks of the railroad located on their property for the general use of the public in receiving and sending merchandise by freight. In each instance, however, as soon as the complainants commenced to load such cars, the respondent placed a picket line on the team track between the car and the switch loading from the team track. Such picket lines were a considerable distance from the struck mills. For example, the Crowley mills of Louisiana State and Supreme were each about 500 yards from the team track. The regular crews of the railroad refused to cross the picket lines to remove the cars

---

[11] For example, Lawrence L. Brown, general manager of the Rice City Mill Co. at Crowley, testified credibly and without contradiction that between October 14 and 22, the regular crews of the Southern Pacific and Missouri Pacific rendered no services to his mill.

[12] When the supervisors and officials of the railroad took the trains through the picket lines, the pickets continued their same activities. That is, they remained on the track until the locomotive was almost upon them before stepping off the track. In one instance, when a locomotive was being coupled to a loaded car, a picket remained in the space between the car and locomotive until forcibly removed by a special agent of the Southern Pacific.

[13] Kuhns testified that the respondent did not attempt to disrupt deliveries by the railroads to industries other than the mills herein involved and that when such deliveries were to be made, the respondent would remove the pickets or issue passes to the train crews. He admitted, however, that no statement of this general policy was given the railroads and that the pickets were not removed or passes were not issued until the railroads brought each individual case to the attention of the respondent.

loaded by the complainants. In some instances, the crews removed cars loaded by persons other than the complainants and in others the team tracks were serviced by trains operated by supervisors and officials of the railroads.

The record establishes that the railroad crews failed to cross the picket lines on and after October 15 because they feared for their safety, both on and off the job, particularly in view of the threats communicated by Brousseard to Lacour. Charles Frejean, a brakeman for the Southern Pacific, testified credibly that on October 20, 1947, when he resumed his duties near the picket line after officials of the Southern Pacific had taken the train through the picket line to bring out loaded cars at Louisiana State, one of the pickets in the group at the railroad tracks said "that he had a good mind to kick" Frejean off the track.

125 3. As to the Sales House

As previously related, the respondent established a picket line on the Southern Pacific tracks servicing Kaplan about the middle of October. On October 21, 1947, about 5:30 p. m., Charles Boutier and Arthur F. Gregory, truck drivers for the Sales House, appeared at the Kaplan plant to obtain some rice or bran for the Sales House. According to the credible testimony of Gregory, the following incident occurred when they approached the plant of Kaplan:

When [we] got up there and was driving into the mill, we met a crowd of fellows walking down by the tracks and as we approached they bade us to stop. . . . They formed a line across the road and walked back toward the truck and we stopped. They asked us where we were going. We said we were going to Kaplan, going to get some rice. They said don't you know we got a strike on. . . . We didn't know it and they said you can't go because the strike is on. You will have to go back. We agreed to that so he asked Charles Boutier, if he had driver's license. He said he had one. "Don't let nobody else drive your truck." We agreed to that. So we simply started to turn around and this fellow spoke rather rough. I asked him why he spoke that way, and he said, "That's all right, go ahead."

We went back to the highway and we stopped at the highway. Charles got out and went to the mill across the street and a fellow by the name of Mr. Montgomery [vice-president of Kaplan] came forth. He . . . came to the truck and asked me was we on our way to the mill. We said we were, and told him what the strikers . . . told us. So he said, "You want the order?" I told
123 him, yes, but I am not the driver, you will have to see the driver about that. So by that time Charles came back to the truck and he spoke to Charles about it. . . . He told us to go

down one block and go back to the rice mill and he got in the truck with us. . . . . So as we neared the track, the fellows left from across the way from where we were, running on the track, and we got there. They asked us to stop or something; making a sign. We didn't hear what they said.

We did not stop and Mr. Montgomery got out of the truck and walked on the front right side of the truck with his hand on the fender and told us to come on. We drove on across the tracks. As we crossed the tracks the fellows threw rocks at the truck and from the lights of the truck we could see the rocks passing in front by Mr. Montgomery. Mr. Montgomery stuck his head inside the cab, to keep the rocks from hitting him, I imagine, and we proceeded on to the mill.

Q. Did you hear the rocks hitting the truck?
A. Yes, sir.
Q. Were these the same men who had stopped you and turned you around and sent you back?
A. Yes, sir.
Q. Were they white fellows?
A. All white.
Q. They told you they were on strike.
A. Yes, sir.

Montgomery testified that Gregory's version of the incident was substantially correct, that rocks were thrown at Montgomery by the strikers, and that he recognized "practically all of them because I know them, they were residents of Kaplan," although at that
124 time none of the group was employed by Kaplan. He further testified that in respect to the incident "there was no picket line because this group had no banner or anything to that effect. Just a congregation of men on the street," but that earlier in the day the group had carried signs and placards used by the respondent. In view of the fact that the respondent had established a picket line on the Southern Pacific tracks near the mill of Kaplan, that the group approached the truck of the Sales House from the vicinity of the Southern Pacific tracks, that the remarks addressed by the group to the Sales House truck drivers identified the group with the picketing activities of the respondent, and that the respondent introduced no evidence in regard to the incident, the undersigned finds that the group who stopped the Sales House truck when it first appeared at Kaplan's plant and who attempted to halt it on its second appearance were pickets of the respondent.

There remains for consideration the question of whether the respondent was responsible for the activities of these pickets under the ordinary principles of the law of agency. Generally speaking, a labor organization is responsible for its agents' acts of unfair labor

practice (1) when the acts have been specifically authorized, (2) when, though unauthorized or even expressly forbidden, they have been committed within the scope of employment of the agents, or (3) when they have been subsequently ratified by the labor organization.[14] In the opinion of the undersigned, the activities of the pickets in respect to the Sales House drivers are attributable to the respondent on the "scope of employment" theory. That is, the pickets were presumably authorized to patrol the railroad tracks leading to the Kaplan mill with the purpose of attempting to
125 dissuade the railroad employees from making deliveries to the mill and from taking out loaded cars from the mill. Such patrolling required the pickets of the respondent to encounter employees of employers neutral to the dispute between the respondent and the complainants under circumstances likely to create dissidence between the two groups. It is clear that in such a setting, the blockade of the road leading to the mill by the pickets and the use of force by the pickets in the course of their patrol near the picket line, as detailed above, were incidental to the authorized patrol and should reasonably have been expected by the respondent when it established the picket line near the Kaplan mill.[15] The undersigned accordingly finds that the stopping of the Sales House truck drivers and the use of force in connection with the stoppage were within the "scope of the employment" of the pickets as agents of the respondent and that such activities are attributable to the respondent.

4. The injunctions

On October 22, 1947, pursuant to the petition of the Missouri Pacific, Paul Debaillon, judge of the Fifteenth Judicial District Court of the State of Louisiana, issued a preliminary injunction whereby the respondent was enjoined from "interfering with" the Missouri Pacific "in conducting its business as a common carrier and in particular in moving cars to and from its switch tracks leading into the plants of" American, International, Supreme, Loving, and Louisiana State and in "moving cars to and from its public loading tracks or public team tracks" in Crowley. Upon the
126 issuance of the preliminary injunction, the respondent ceased its picketing activities at the tracks of the Missouri Pacific

---

[14] See Restatement of Agency, §§ 82, 83, 93, 100, 212, 216, 218, 219, 228, 230. See also Section 2 (13) of the Act.

[15] As a matter of fact, the activities of these pickets were analogous to the tactics employed by the respondent at other times during the strike. For example, the respondent's threats of violence made by the employees of the railroads should they continue to pass the picket lines, followed by mass picketing of the tracks of the railroad.

and Southern Pacific. However, it continued to picket the mills of the complainants until the latter part of 1947.

On February 17, 1948, upon the consent and stipulation of the General Counsel and the respondent, Ben C. Dawkins, Judge of the District Court of the United States for the Western District of Louisiana, issued a preliminary injunction, which, in brief, enjoined the respondent from committing any acts alleged in the complaint to be violative of the Act.

D. Conclusions

1. As to the respondent's special defenses

The respondent initially contends that the complainant's allegations of violation of Section 8 (b), subsections (4) (A) and (4) (B), are "insufficient in law," insofar as the respondent's activities respecting the railroads are concerned, because the Act's definitions of the terms "employer" and "employee" specifically exclude from the scope of the Act, respectively, "any person subject to the Railway Labor Act" and "any individual employed by an employer subject to the Railway Labor Act."[16] That is, the respondent argues that the railroads and their employees are excluded from the terms "employer" and "employee" by the Act's definitions and that any activities of the respondent in respect to them cannot be held to be violative of the Act.

127 The legislative history of the Act is not completely and directly determinative of the argument raised by the respondent, although it does indicate that the primary purpose of excluding railroad employers and railroad employees from the scope of the terms "employer" and "employee" was to preserve the principle enunciated in the earlier National Labor Relations Act, 49 Stat. 449, that the statute would not directly regulate the relationship between the railroad and their employees, who were subject to an analogous labor relations act, namely the Railway Labor Act. Thus, the report of the Joint Study Committee on Labor Relations[17] stated as follows in respect to the definition of the term "employee":

> The changes in the definition of this term are as follows . . .
>
> c. The exemption of employees of employers subject to the Railway Labor Act is to make it perfectly clear that in providing remedies from unfair labor practices of unions and their agents it was not intended to include such employees.

---

[16] See Section 2 (2) and (3).

[17] Senate Report No. 105 on S. 1126, pp. 18, 19.

In respect to this section, Senator Robert Taft stated in the Congressional Record,[18]

I want to point out that railway labor has never been covered by the Wagner Act; it has always been covered by the Railway Labor Act, which provides a somewhat different procedure. We see no reason to change that situation, because there were no abuses which had arisen in connection with the operation of the Railway Labor Act. In general, we confined our amendments to the
128 bill to acts which, from evidence before the committee, were specifically shown to be abuses.

Clearly, the manifest intent of Congress in excluding the railroads and their employees from the definitions of "employer" and "employee" was to insure that neither would be governed by the terms of the Act but would still be subject to the regulations of the Railway Labor Act. For example, the activities of neither the railroads nor their employees might be held to be unfair labor practices under the Act. The exemption of the railroads and their employees being positive and direct as to the regulatory features of the Act, it does not necessarily follow that Congress intended by the reference to "employer" and "employee," to exclude railroads and their employees from the purview of Section 8 (b) (4).

That Congress did not intend to exclude railroads and their employees is manifest by the language of Section 8 (b) (4), which, as pertinent to the instant proceeding, reads as follows:

It shall be an unfair labor practice for a labor organization or its agents . . . to engage in, or to induce or encourage the employees of *any* employer to engage in, a strike or a concerted refusal in the course of their employment to use, manufacture, process, transport, or otherwise handle or work on any goods, articles, materials, or commodities or to perform any services, where an object thereof is: (A) forcing or requiring . . . *Any* employer or *other person* to cease using, selling, handling, transporting, or otherwise dealing in the products of any other producer, processor, or manufacturer, or to cease doing business with any other person; (emphasis supplied).

129 Elsewhere in Section 8 of the Act, when the word "employer" is used it is preceded by the indefinite article "an" a total of 7 times, and twice by the article "the." In subsection (4) of Section 8 (b), however, the modifying adjective "any" is used in connection with the word "employer" a total of 6 times. In Section 8 of the Act, such usage is confined solely to subsection (4) and the proviso thereto. Contracting the usage of the adjective

[18] 93 Cong. Rec. 6658.

"any" in connection with the word "employer" in subsection (4) with the use of the indefinite article "an" elsewhere in Section 8, give rise to the inference that Congress intended by the word "any" to embrace the class of employers as a whole and not merely those within the definition of employer set forth by Section 2 of the Act. That such was the Congressional intent is established, in the opinion of the undersigned, by the phrase in subsection (4) (A), any employer or other person." The word "person" is defined in Section 2 as including "one or more individuals, labor organizations, partnerships, associations, corporations, legal representatives, trustees, trustees in bankruptcy, or receivers." The word "person" therefore embraces many if not all classifications excluded from the definition of the word "employer" in Section 2 (2). Obviously, the definition of "person" would include the railroads of the instant proceeding. Since the words "any employer" in the introductory portion of subsection (4) and the words "any employer or other person" in paragraph (A) of subsection (4) refer to the same employer, the undersigned construes the latter phrase to be a controlling amplification of the meaning of the earlier phrase, "any employer." In view of the usage and meaning of the words "any" and "or other person" in Section 8 (b), subsection (4), the undersigned concludes that the railroads are employers within the meaning of Section 8 (b), subsection (4).

130 This conclusion is further buttressed by the Congressional intent, evidenced in the committee reports and debates in the Congress, that the purpose of Section 8 (b), subsections (4) (A) and (4) (B), was to remove a particular obstruction loosely termed "the secondary boycott," to the free flow of goods in interstate commerce. Nowhere in the Congressional history of the Act is there any intimation that Congress did not intend that Section 8 (b), subsections (4) (A) and (4) (B), should not apply to a situation such as the instant proceeding, where the railroads, neutrals to the primary dispute between the respondent and the complainants, became involved in the controversy through activities of the respondent. On the contrary, the prevailing intent of the statute is to remove such obstructions and to protect commerce from such injury, impairment, or interruption. Acceptance of the position advanced by the respondent would remove from the ambit of Section 8 (b), subsections (4) (A) and (4) (B), the industry possibly most directly and extensively concerned with commerce, namely, the vast railroad transportation system, would violate the clear intent of Congress in enactment of the section, and would to a considerable extent vitiate the Act. In addition, such acceptance would create an illogical hiatus in the law obviously not intended by Congress. That is, activities of the respondent directed toward certain employers within the definition of Section 2 of the Act

would be violative of Section 8 (b), subsections (4) (A) and (4) (B), yet the same activities when directed to one of the employers exempt under Section 2 of the Act would not be a violation. In the instant case the respondent's activities in respect to the Sales House would be violative of the Act, but the same activities directed toward the railroads would not be violative of the Act, thereby creating a situation whereby the respondent's own wrongdoing
131 would inure profitably to its benefit. Obviously, such an interpretation of Section 8 (b), subsections (4) (A) and (4) (B), would encourage the extension of disputes to railroads and their employees, creating an effect on commerce antipodal to that intended by Congress.

In addition, the construction urged by the respondent as to the meaning of the words "any employer" would, if accepted, create still another hiatus in the law when applied to the proviso to Section 8 (b). The proviso reads as follows:

> That nothing contained in this subsection (b) shall be construed to make unlawful a refusal by any person to enter upon the premises of *any employer* (other than his own employer), if the employees of such employer are engaged in a strike ratified or approved by a representative of such employees whom such employer is required to recognize under this Act. (Emphasis supplied.)

If the respondent's argument were accepted, it would deny the protection of the proviso to these employees otherwise protected by the statute who refused to cross a picket line established around the premises of a railroad.

In view of the foregoing considerations, the undersigned concludes and finds that the railroads and their employees are not exempt from the scope of Section 8 (b), subsections (4) (A) and (4) (B) of the Act.

As a second defense, the respondent argues, in effect, that the complaint should be dismissed because it was based upon a charge improperly filed by the complainants, who as "the principal parties" in the dispute between the respondent and the complainants
132 "are not entitled to bring the case of secondary boycott." The respondent contends that charges of violation of Section 8 (b), subsections (4) (A) and (4) (B), can be made only "neutrals" or third persons not directly involved in the primary dispute between the respondent and the complainants—i.e., the railroads or the Sales House herein—and that the complainants being primarily and directly concerned in the labor dispute have no standing to file charges of secondary boycott by the respondent against the railroads and the Sales House.

This contention is clearly without merit. The Act itself contains no restrictions or limitations as to the identity or interest of persons filing charges[19] and the Board's Rules and Regulations specifically state that "A charge that any person has engaged in or is engaging in any unfair labor practices affecting commerce may be made by any person."[20] In discussing the same provisions of the Wagner Act, 49 Stat. 449, the Supreme Court stated:

> The Act required a charge before the Board may issue a complaint, but omits any requirements that the charge be filed by a labor organization or an employee. . . . The charge is not proof. It merely sets in motion the machinery of an inquiry. When a Board complaint issues, the question is only the truth of its accusation. The charge does not even serve the purpose of a pleading. Dubious character, evil or unlawful motives, or bad faith of the informer cannot deprive the Board of its jurisdiction to conduct the inquiry.[21]

133 The undersigned accordingly finds no merit in the respondent's argument that the proceeding was improperly initiated upon charges of the complainants.[22]

Thirdly, the respondent raises a constitutional question, stating, "In addition we take the position that strike activity and picketing in this case as a whole are not sufficient as a matter of law to demonstrate any threats or coercion. . . . But the evidence shows at best a moderate exuberance on the part of unauthorized individuals and . . . under the doctrine of the Meadowmoor case, it is not sufficient to infringe on basic constitutional rights of free speech." Insofar as this statement may be considered to be an argument that Section 8 (b), (4) (A) and (4) (B), of the Act is violative of the free speech guarantees of the Constitution of the United States, it is clearly without merit, for it is inappropriate for the Board as an administrative agency to pass upon questions regarding the con-

---

[19] Section 10 (b) of the Act reads, "Whenever it is charged that any person has engaged in or is engaging in any such unfair labor practice, the Board . . . shall have power to issue and cause to be served upon such person a complaint stating the charges in that respect. . . ."

[20] National Labor Relations Board Rules and Regulations, Series 5, Sec. 203.9.

[21] *National Labor Relations Board v. Indiana & Michigan Electrical Company*, 318 U. S. 9, 17, 18.

[22] See also *Matter of Washougal Woolen Mills*, 23 N. L. R. B. 1.

stitutionality of Congressional enactments. The undersigned accordingly assumes the constitutionality of the Section.[33]

2. As to the merits.

Turning then to a consideration of the facts set forth above in relation to the prohibitions of the Act, the pertinent portions of the Act alleged by the complaint to have been violated by the respondent read as follows:

It shall be an unfair labor practice for a labor organization or its agents . . . to engage in, or to induce or encourage the
134 employees of any employer to engage in, a strike or a concerted refusal in the course of their employment to use, manufacture, process, transport, or otherwise handle or work on any goods, articles, materials, or commodities or to perform any services, where an object thereof is: (A) forcing or requiring . . . any employer or other person to cease using, selling, handling, transporting, or otherwise dealing in the products of any other producer, processor, or manufacturer, or to cease doing business with any other person; (B) forcing or requiring any other employer to recognize or bargain with a labor organization as the representative of his employees unless such labor organization has been certified as the representative of such employees under the provisions of Section 9. . . .

The purpose of the respondent's primary strike against the complainants admittedly was for recognition. It seems clear that a strike for such a purpose is not in itself an unfair labor practice under the Act and that the activities of the respondent in the early period of the strike were not violative of the Act, if the somewhat desultory picketing of the Southern Pacific and Missouri Pacific tracks at a portion of the mills be disregarded.[34] In regard to its desire for statutory recognition, the record establishes that the respondent had never been certified by the Board as such representative for any of the complainant's employees; and no substan-

---

[33] See *Matter of Rite-Form Corset Company, Inc.*, 75 N. L. R. B., No. 19, wherein the Board stated, "Such questions will be left to the courts. In the absence of any court decision to the contrary, the Board assumes that the Act as amended does not violate any provision of the Constitution of the United States, as alleged by the petitioner."

[34] In view of the conclusions reached *infra* as to the respondent's threats to the railroad employees and its concentrated picketing activities at the railroads in October, the undersigned finds it unnecessary to determine whether Broussards' letter to Lacour and the picketing of the railroads in the early stages of the strike were violative of the Act.

tive or probative evidence in support of its majority claim was
135 introduced at the hearing by the respondent.[25] The record clearly supports an inference that the strike activities of the respondent in September and early October manifestly failed to achieve the desired purpose of recognition of the respondent as bargaining representative of the complainants' employees. Indeed, the employees of the railroads continued to service the complainants, and the mills continued their operations at near, if not full, capacity and without any serious inconvenience.

In mid-October, the strike tactics of the respondent admittedly changed. The desultory picketing of the railroads was intensified. As trains approached, groups of pickets ranging in some instances as high as 15 or 30, gathered on the tracks, holding placards toward the locomotive. Contemporaneously with the change in picketing activities in respect to the railroads servicing the complainants, Broussard by telephone informed Lacour, an officer in the labor organization representing many of the employees of the railroads, that if the employees of the Southern Pacific and Missouri Pacific did not respect the picket lines, they might "be shot with buckshot." On the following day, this threat was confirmed and amplified by Broussard in a personal interview with Lacour, Boudreaux, and Swanzey. Thus, Broussard "clarified" his telephone conversation with Lacour by informing them that "he could not be responsible for the men" and that "the men were just a little bit restless over the fact that [the employees of Southern Pacific and Missouri Pacific] were switching and spotting cars." He furthermore
136 explained, when dynamite was mentioned, that "the men were evidently prepared." Broussard's warning that "all he could do, to any member of his organization, if there was any violence, would be to suspend that member," intensified the threats, in the opinion of the undersigned, indicating the lack of control by the respondent of its members.

The result of these threats, of which the railroad employees were informed by Lacour, and the intensified picketing on the tracks of the railroads, was the concerted refusal on the part of the train

---

[25] Kuhns testified generally that the respondent represented a majority of the employees of each complainant at the time the strike began. No documentary evidence in the way of membership cards or records were introduced in evidence. In the opinion of the undersigned, Kuhns' testimony standing alone is insufficient to establish the majority status of the respondent at each of the complainant's mills. It is therefore found that the record does not establish that the respondent was the collective bargaining representative of the majority of the employees of any complainant.

crews to cross the picket lines. Their refusal, as amply established by the record, was based upon their fear of violence or reprisal upon themselves or their property by the respondent if they crossed the picket lines. The motivation for the respondent in making the threats of violence against the trainmen and in intensifying the picketing activities at the railroad tracks is shown by the following testimony of Kuhns, agent of the respondent:

Our full intention when we was picketing these mills and the railroad tracks was to perform any operation by which the trains would stop and not service those mills.

Thus, it follows that, in the words of the Act, the respondent did by the threats of violence and by its mass picketing activities did "induce or encourage the employees" of the Southern Pacific and Missouri Pacific, neutrals to the primary dispute between the respondent and the complainants, "to engage in a strike or a concerted refusal in the course of their employment to . . . transport or otherwise handle or work on any goods, articles, materials, or commodities or to perform any services" with the avowed object (1) of "forcing or requiring" the Southern Pacific and the
137 Missouri Pacific "to cease . . . handling, transporting, or otherwise dealing in the products of" the complainants or "to cease doing business with" the complainants and (2) of "forcing or requiring" the complainants "to recognize or bargain with" the respondent as "the representative of" the complainants' employees at a time when the respondent was not a certified representative of such employees. The undersigned accordingly concludes and finds that by the threats of violence on the part of Broussard and by the intensive and mass picketing on the tracks of the Missouri Pacific and the Southern Pacific, the respondent has violated Section 8 (b), subsections (4) (A) and (4) (B), of the Act.[26]

Similarly, the incident between the respondent's pickets and the drivers for the Sales House was violative of the Act. When the drivers initially approached the mill of Kaplan, the respondent's pickets at the tracks of the Southern Pacific came to the street, formed a line across the street, stopped the truck, informed the drivers that a strike was in progress and that they could not enter because "the strike is on," and ordered them to retrace their course. When the drivers returned to the mill with Montgomery, vice-president of Kaplan, the pickets again assembled on the roadway leading to the mill and attempted forcibly by the throwing of stones to halt the progress of the truck into the mill. The entire incident clearly establishes that the respondent, again in the words of the

[26] The applicability of Section 8 (c) will be discussed *infra*.

Act, did "induce or encourage the employees" of the Sales House, a neutral to the primary labor dispute between the respondent and the complainants, "to engage in, a strike or concerted refusal in the course of their employment to . . . transport, or otherwise handle or work on any goods, articles, material, or commodities or to
138 perform any services" with the avowed object, as shown by Kuhns' testimony, (1) of "forcing or requiring" the Sales House "to cease . . . handling, transporting, or otherwise dealing in the products of" Kaplan or "to cease doing business with" Kaplan and (2) of "forcing or requiring" Kaplan "to recognize or bargain with" the respondent as "the representative of" Kaplan's employees at a time when the respondent was not a certified representative of such employees. The fact that the respondent was not ultimately successful in its attempt to dissuade the drivers of the Sales House from entering Kaplan's mill is immaterial. Inducement or encouragement of the Sales House employees is clearly shown. The undersigned finds that by this conduct the respondent violated Section 8 (b), subsections (4) (A) and (4) (B), of the Act.

As mentioned previously, the respondent urged that its conduct fell within the constitutional guarantee of free speech, and the undersigned has found no merit in the contention, inasmuch as the constitutionality of the Act is assumed. However, under the terms of the Act, the respondent might well raise its defense of free speech on the basis of Section 8 (c), which provides:

> The expressing of any views, argument, or opinion, or the dissemination thereof, whether in written, printed, graphic, or visual form, shall not constitute or be evidence of an unfair labor practice under any of the provisions of this Act, if such expression contains no threat of reprisal or force or promise of benefit.

Assuming *arguendo* that this proviso applies to Section 8 (b) as well as Section 8 (a), it is clear that it affords the respondent no protection for the respondent's activities in respect to the
139 employees of the railroads and of the Sales House. As previously found, in urging these employees to respect its picket lines, the respondent expressed threats of reprisal and force as to the railroad employees and engaged in acts of reprisal and force, namely stoning of the truck, in respect to the Sales House employees. It is therefore found that the acts engaged in by the respondent in violation of Section 8 (b), subsections (4) (A) and (4) (B), are beyond the ambit of the protection of Section 8 (c).

III. The effect of the unfair labor practices upon commerce

The activities of the respondent set forth in Section II, above, occurring in connection with the operations of the complainants set forth in Section I, above, have a close, intimate, and substantial

relation to trade, traffic, and commerce among the several States, and tend to lead, and have led, to labor disputes burdening and obstructing commerce and the free flow of commerce.

IV. The remedy

It has been found that the respondent has violated Section 8 (b), subsections (4) (A) and (4) (B), of the Act. Although the strike of the railroads has presumably ceased, there is a possibility that similar acts may be repeated in the future by the respondent.[11] It will therefore be recommended that the respondent cease and
140 desist from inducing or encouraging the employees of the railroads and the Sales House or of any other employer to engage in a strike or a concerted refusal in the course of their employment to use, manufacture, process, transport, or otherwise handle or work on goods, articles, materials, or commodities, or to perform any services, with the object (1) of forcing or requiring the railroads, the Sales House, or any other employer to cease using, selling, handling, transporting, or otherwise dealing in the products of, or to cease doing business with, the complainants or (2) of forcing or requiring the complainants to recognize or bargain with the respondent as the representative of the complainants' employees unless the respondent has been certified as the statutory representative of such employees.

At the conclusion of the hearing in summing up his position, counsel for the respondent stated,

Now, if any order is written, we are requesting the Examiner to save to us the language of that order, so that we may have clearly the right to advertise the facts we deem relevant to our dispute at the scene of the job and that if our pickets are not excessive in number and do not interfere with egress and ingress, they should be permitted at all reasonable public places and if they are at the scene of any given plant which is under dispute and in reasonable prox-

---

[11] In summing up his position at the close of the hearing, counsel for the respondent stated, "Now, passing over all that, here is one thing we'd like to stress to the Trial Examiner. If the Trial Examiner recommends any order in this case, which is based upon the language of the Statute and anything further, we will be nowhere by having had this hearing. There are going to be future organizational campaigns and I think they will have the question of representation come up this very next season and it is our position that if the order is going to enforce and apply the law, it should be so written that we may be under our right altogether and not be left to any legal interpretation to arrive at those rights."

inity thereto, the right to picket should not be impaired merely because a railroad at that point crosses.

We ask this Examiner that if any order be issued, that it not impair the right that we have to solicit by peaceful means the support of anybody who may be disposed to give support. . . . We should like to have an order in which the pickets have the right to parade on public property.

141 We do not claim any right to standing in the middle of the tracks where the railroad is exercising its right of easement to come through.

Counsel for the complainants and the General Counsel, on the other hand, argue that all picketing of the properties of the railroads should be enjoined, the theory of the General Counsel being, in reliance upon the *Meadowmoor* case[28] that "the picketing is inseparable from unlawful conduct." The undersigned does not agree. The facts of the instant case are not comparable to those of the *Meadowmoor* case, in that the unlawful conduct of the respondent herein consisted principally of threats of violence followed by the equivalent of mass picketing of the railroads and the stopping and stoning of the Sales House drivers. In the opinion of the undersigned, the threats and the act of violence were episodic and isolated and the picketing did not occur in such a background of violence and was not so enmeshed with acts of violence, that the one cannot be separated from the other. The undersigned will accordingly, not recommend that the respondent be restrained from all picketing of the railroads, and nothing in the recommended order shall be construed as restraining any future action by the respondent which may be legal under Section 8 (b), subsections (4) (A) and (4) (B).

Upon the basis of the foregoing findings of fact and upon the entire record in the case, the undersigned makes the following:

Conclusions of Law

1. International Rice Milling Co., Inc.; American Rice Milling Co., Inc.; Louisiana State Rice Milling Co., Inc.; Joseph
142 Dore, Sr., doing business as Supreme Rice Mill; Monte Loving, an individual doing business as Loving Rice Mills; and Kaplan Rice Mills, Inc., are engaged in commerce within the meaning of Section 2, subsection (6) and (7), of the Act.

2. International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 201, AFL, is a labor organization within the meaning of Section 2 (5) of the Act.

---

[28] *Milk Wagon Drivers Union etc. v. Meadowmoor Dairies, Inc.*, 312 U. S. 287.

3. By inducing or encouraging the employees of Texas and New Orleans Railroad, of New Orleans, Texas and Mexico Railroad Company and Guy A. Thompson, as Trustee, and of The Sales and Service House to refuse in the course of their employment to transport goods, articles, materials, or commodities to or from, or to perform any services for, International Rice Milling Co., Inc.; American Rice Milling Co., Inc.; Louisiana State Rice Milling Co., Inc.; Joseph Dore, Sr., doing business as Supreme Rice Mill; Monte Loving, an individual doing business as Loving Rice Mills; and Kaplan Rice Mills, Inc., with the object of forcing or requiring Texas and New Orleans Railroad; New Orleans, Texas and Mexico Railroad Company and Guy A. Thompson, as trustee; and The Sales and Service House to cease using, selling, handling, transporting, or otherwise dealing in the products of, or to cease doing business with, such milling companies, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 201, AFL, has engaged in and is engaging in unfair labor practices within the meaning of Section 8 (b), subsection (4) (A), of the Act.

4. By inducing or encouraging the employees of Texas and New Orleans Railroad, of New Orleans, Texas and Mexico Railroad Company and Guy A. Thompson, as trustee, and of The Sales and Service House to refuse in the course of their employment to transport goods, articles, materials, or commodities to or from, or to perform any services for, International Rice Milling Co., Inc., American Rice Milling Co., Inc.; Louisiana State Rice Milling Co., Inc.; Joseph Dore, Sr., doing business as Supreme Rice Mill; Monte Loving, an individual doing business as Loving Rice Mill; and Kaplan Rice Mills, Inc., with the object of forcing or requiring such milling companies to recognize or bargain with International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 201, AFL, as the representative of the employees of such milling companies at a time when such labor organization had not been certified by the Board as the representative of such employees, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 201, AFL, has engaged in and is engaging in unfair labor practices within the meaning of Section 8 (b), subsection (4) (B), of the Act.

143

5. The aforesaid unfair labor practices are unfair labor practices affecting commerce within the meaning of Section 2, subsections (6) and (7), of the Act.

Recommendations

Upon the basis of the above findings of fact and conclusions of law, the undersigned hereby recommends that International Broth-

erhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 201, AFL, its officers and agents shall:

1. Cease and desist from:

(a) Inducing or encouraging the employees of Texas and New Orleans Railroad, of New Orleans, Texas and Mexico Rail-
144 road Company and Guy A. Thompson, as trustee, of The Sales and Service House, or of any other employer to engage in a strike or a concerted refusal in the course of their employment to use, manufacture, process, transport, or otherwise handle or work on goods, articles, materials, or commodities, or to perform any services with the object of forcing or requiring Texas and New Orleans Railroad; New Orleans, Texas and Mexico Railroad Company and Guy A. Thompson, as trustee; The Sales Service House; or any other employer to cease using, selling, handling, transporting, or otherwise dealing in the products of, or to cease doing business, with International Rice Milling Co., Inc.; American Rice Milling Co., Inc.; Louisiana State Rice Milling Co., Inc.; Joseph Dore, Sr., doing business as Supreme Rice Mill; Monte Loving, an individual doing business as Loving Rice Mills; and Kaplan Rice Mills, Inc.;

(b) Inducing or encouraging the employees of Texas and New Orleans Railroad, of New Orleans, Texas and Mexico Railroad Company and Guy A. Thompson, as trustee, of The Sales and Service House, or of any other employer to engage in a strike or a concerted refusal in the course of their employment to use, manufacture, process, transport, or otherwise handle or work on goods, articles, materials, or commodities, or to perform any services with the object of forcing or requiring International Rice Milling Co., Inc.; American Rice Milling Co., Inc.; Louisiana State Rice Milling Co., Inc.; Joseph Dore, Sr., doing business as Supreme Rice Mill; Monte Loving, an individual doing business as Loving Rice Mills; and Kaplan Rice Mills, Inc., to recognize or bargain with International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 201, AFL, as the representative of the employees
145 of such companies unless such labor organization has been certified by the Board as the representative of such employees.

2. Take the following affirmative action, which the undersigned finds will effectuate the policies of the Act:

(a) Post in conspicuous places at the business office of International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 201, AFL, at Crowley, Louisiana, where notices or communications to members are customarily posted, copies of the notice attached hereto as an appendix. Copies of the

erhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 201, AFL, its officers and agents shall:

1. Cease and desist from:

(a) Inducing or encouraging the employees of Texas and New Orleans Railroad, of New Orleans, Texas and Mexico Rail-
144 road Company and Guy A. Thompson, as trustee, of The Sales and Service House, or of any other employer to engage in a strike or a concerted refusal in the course of their employment to use, manufacture, process, transport, or otherwise handle or work on goods, articles, materials, or commodities, or to perform any services with the object of forcing or requiring Texas and New Orleans Railroad; New Orleans, Texas and Mexico Railroad Company and Guy A. Thompson, as trustee; The Sales Service House; or any other employer to cease using, selling, handling, transporting, or otherwise dealing in the products of, or to cease doing business, with International Rice Milling Co., Inc.; American Rice Milling Co., Inc.; Louisiana State Rice Milling Co., Inc.; Joseph Dore, Sr., doing business as Supreme Rice Mill; Monte Loving, an individual doing business as Loving Rice Mills; and Kaplan Rice Mills, Inc.;

(b) Inducing or encouraging the employees of Texas and New Orleans Railroad, of New Orleans, Texas and Mexico Railroad Company and Guy A. Thompson, as trustee, of The Sales and Service House, or of any other employer to engage in a strike or a concerted refusal in the course of their employment to use, manufacture, process, transport, or otherwise handle or work on goods, articles, materials, or commodities, or to perform any services with the object of forcing or requiring International Rice Milling Co., Inc.; American Rice Milling Co., Inc.; Louisiana State Rice Milling Co., Inc.; Joseph Dore, Sr., doing business as Supreme Rice Mill; Monte Loving, an individual doing business as Loving Rice Mills; and Kaplan Rice Mills, Inc., to recognize or bargain with International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 201, AFL, as the representative of the employees
145 of such companies unless such labor organization has been certified by the Board as the representative of such employees.

2. Take the following affirmative action, which the undersigned finds will effectuate the policies of the Act:

(a) Post in conspicuous places at the business office of International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 201, AFL, at Crowley, Louisiana, where notices or communications to members are customarily posted, copies of the notice attached hereto as an appendix. Copies of the

notice, to be furnished by the Regional Director for the Fifteenth Region, shall after being signed by an official representative of Local No. 201, be posted by the respondent immediately upon receipt thereof and maintained by it for a period of sixty (60) consecutive days thereafter. Reasonable steps shall be taken by the respondent to insure that said notices are not altered, defaced, or covered by any other material; and

(b) Notify the Regional Director for the Fifteenth Region in writing within ten (10) days from the date of the receipt of this Intermediate Report, what steps the respondent has taken to comply therewith.

It is further recommended that, unless the respondent shall within ten (10) days from the receipt of this Intermediate Report notify said Regional Director in writing that it will comply with the foregoing recommendations, the National Labor Relations Board issue an order requiring the respondent to take the action aforesaid.

As provided in Section 203.46 of the Rules and Regulations of the National Labor Relations Board, Series 5, effective
146 August 22, 1947, any party may within twenty (20) days from the date of service of the order transferring the case to the Board pursuant to Section 203.45 of said Rules and Regulations, file with the Board, Rochambeau Building, Washington, D. C., an original and six copies of a statement in writing setting forth such exceptions to the Intermediate Report or to any other part of the record or proceeding (including rulings upon all motions or objections) as he relies upon, together with the original and six copies of a brief in support thereof; and any party may, within the same period, file an original and six copies of a brief in support of the Intermediate Report. Immediately upon the filing of such statement of exceptions and/or briefs, the party filing the same shall serve a copy thereof upon each of the other parties. Proof of service on the other parties of all papers filed with the Board shall be promptly made as required by Section 203.85. As further provided in said Section 203.46, should any party desire permission to argue orally before the Board, request therefor must be made in writing to the Board within ten (10) days from the date of service of the order transferring the case to the Board.

In the event no Statement of Exceptions is filed as provided by the aforesaid Rules and Regulations, the findings, conclusions, recommendations, and recommended order herein contained shall, as provided in Section 203.48 of said Rules and Regulations, be adopted by the Board and become its findings, conclusions and order, and all objections and exceptions thereto shall be deemed waived for all purposes.

FREDERIC B. PARKER, II,
Trial Examiner.

Dated: June 25, 1948.

notice, to be furnished by the Regional Director for the Fifteenth Region, shall after being signed by an official representative of Local No. 201, be posted by the respondent immediately upon receipt thereof and maintained by it for a period of sixty (60) consecutive days thereafter. Reasonable steps shall be taken by the respondent to insure that said notices are not altered, defaced, or covered by any other material; and

(b) Notify the Regional Director for the Fifteenth Region in writing within ten (10) days from the date of the receipt of this Intermediate Report, what steps the respondent has taken to comply therewith.

It is further recommended that, unless the respondent shall within ten (10) days from the receipt of this Intermediate Report notify said Regional Director in writing that it will comply with the foregoing recommendations, the National Labor Relations Board issue an order requiring the respondent to take the action aforesaid.

As provided in Section 203.46 of the Rules and Regulations of the National Labor Relations Board, Series 5, effective
146 August 22, 1947, any party may within twenty (20) days from the date of service of the order transferring the case to the Board pursuant to Section 203.45 of said Rules and Regulations, file with the Board, Rochambeau Building, Washington, D. C., an original and six copies of a statement in writing setting forth such exceptions to the Intermediate Report or to any other part of the record or proceeding (including rulings upon all motions or objections) as he relies upon, together with the original and six copies of a brief in support thereof; and any party may, within the same period, file an original and six copies of a brief in support of the Intermediate Report. Immediately upon the filing of such statement of exceptions and/or briefs, the party filing the same shall serve a copy thereof upon each of the other parties. Proof of service on the other parties of all papers filed with the Board shall be promptly made as required by Section 203.85. As further provided in said Section 203.46, should any party desire permission to argue orally before the Board, request therefor must be made in writing to the Board within ten (10) days from the date of service of the order transferring the case to the Board.

In the event no Statement of Exceptions is filed as provided by the aforesaid Rules and Regulations, the findings, conclusions, recommendations, and recommended order herein contained shall, as provided in Section 203.48 of said Rules and Regulations, be adopted by the Board and become its findings, conclusions and order, and all objections and exceptions thereto shall be deemed waived for all purposes.

FREDERIC B. PARKER, II,
Trial Examiner.

Dated: June 25, 1948.

147 Appendix

Notice

To All Members of International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 201 AFL.

Pursuant to the Recommendations of a Trial Examiner of the National Labor Relations Board, and in order to effectuate the policies of the National Labor Relations Act, as amended, we hereby notify our members that:

We Will Not induce or encourage the employees of Texas and New Orleans Railroad, of New Orleans, Texas and Mexico Railroad Company and Guy A. Thompson, as trustee, of The Sales and Service House, or of any other employer to engage in a strike or concerted refusal in the course of their employment to use, manufacture, process, transport, or otherwise handle or work on goods, articles, materials, or commodities, or to perform any services with the object

1. Of forcing or requiring Texas and New Orleans Railroad; New Orleans, Texas and Mexico Railroad Company and Guy A. Thompson, as trustee; The Sales and Service House; or any other employer to cease using, selling, handling, transporting, or otherwise dealing in the products of, or to cease doing business with, International Rice Milling Co., Inc.; American Rice Milling Co., Inc.; Louisiana State Rice Milling Co., Inc.; Joseph Dore, Sr., doing business as Supreme Rice Mill; Monte Loving, an individual doing business as Loving Rice Mills; and Kaplan Rice Mills, Inc., or

148 2. Of forcing or requiring International Rice Milling Co., Inc.; American Rice Milling Co., Inc.; Louisiana State Rice Milling Co., Inc.; Joseph Dore, Sr. doing business as Supreme Rice Mill; Monte Loving, an individual doing business as Loving Rice Mills; and Kaplan Rice Mills, Inc., to recognize or bargain with International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 201, AFL, as the representative of the employees of such companies unless Local No. 201, has been certified by the National Labor Relations Board as the representative of such employees.

INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA, LOCAL NO. 201, AFL,
(Labor organization),

By.....
Title of Officer

Dated:.....

147 Appendix

Notice

To All Members of International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 201 AFL.

Pursuant to the Recommendations of a Trial Examiner of the National Labor Relations Board, and in order to effectuate the policies of the National Labor Relations Act, as amended, we hereby notify our members that:

We Will Not induce or encourage the employees of Texas and New Orleans Railroad, of New Orleans, Texas and Mexico Railroad Company and Guy A. Thompson, as trustee, of The Sales and Service House, or of any other employer to engage in a strike or concerted refusal in the course of their employment to use, manufacture, process, transport, or otherwise handle or work on goods, articles, materials, or commodities, or to perform any services with the object

1. Of forcing or requiring Texas and New Orleans Railroad; New Orleans, Texas and Mexico Railroad Company and Guy A. Thompson, as trustee; The Sales and Service House; or any other employer to cease using, selling, handling, transporting, or otherwise dealing in the products of, or to cease doing business with, International Rice Milling Co., Inc.; American Rice Milling Co., Inc.; Louisiana State Rice Milling Co., Inc.; Joseph Dore, Sr., doing business as Supreme Rice Mill; Monte Loving, an individual doing business as Loving Rice Mills; and Kaplan Rice Mills, Inc., or

148 2. Of forcing or requiring International Rice Milling Co., Inc.; American Rice Milling Co., Inc.; Louisiana State Rice Milling Co., Inc.; Joseph Dore, Sr. doing business as Supreme Rice Mill; Monte Loving, an individual doing business as Loving Rice Mills; and Kaplan Rice Mills, Inc., to recognize or bargain with International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 201, AFL, as the representative of the employees of such companies unless Local No. 201, has been certified by the National Labor Relations Board as the representative of such employees.

INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA, LOCAL NO. 201, AFL,
(Labor organization),

By.....
Title of Officer

Dated:.....

This notice must remain posted for sixty (60) days from the date hereof, and must not be altered, defaced, or covered by any other material.

(Affidavit and Return Receipts omitted.)

* * * * * * *

149 In the United States Court of Appeals for the Fifth Circuit

[Title omitted]

CERTIFICATE OF THE NATIONAL LABOR RELATIONS BOARD

The National Labor Relations Board, by its Executive Secretary, duly authorized by Section 102.87, Rules and Regulations of the National Labor Relations Board, hereby certifies that the documents annexed hereto constitute a full and accurate transcript of the entire record of a consolidated proceeding had before said Board, entitled, "In the Matter of International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 201, AFL, and the International Rice Milling Co., Inc.; American Rice Milling Co., Inc.; Louisiana State Rice Milling Co., Inc.; and Joseph Dore, Sr., doing business as Supreme Rice Mill, Case No. 15-CC-1," "In the Matter of International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 201, AFL and Loving Rice Mills, Case No. 15-CC-2," "In the Matter of International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 201, AFL and Louisiana State Rice Milling Co., Inc., Case No. 15-CC-3," and "In the Matter of International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 201, AFL and Kaplan Rice Mills, Inc., Case No. 15-CC-4," such transcript including the pleadings, testimony and evidence upon which the order of the Board in said proceeding was entered, and including also the findings and order of the Board.

150 Fully enumerated, said documents attached hereto are as follows:

(1) Copy of order designating Frederic Parkes, 2nd, Trial Examiner for the National Labor Relations Board, dated March 25, 1948.

(2) Stenographic transcript of testimony taken before Trial Examiner Parkes on March 25, 26, and 27, 1948, together with all exhibits introduced in evidence.

(3) Copy of petitioners' telegram, dated April 2, 1948, requesting extension of time for filing briefs with the Trial Examiner.

(4) Copy of Acting Chief Trial Examiner's telegram, dated April 5, 1948, granting all parties extension of time for filing briefs with the Trial Examiner.

This notice must remain posted for sixty (60) days from the date hereof, and must not be altered, defaced, or covered by any other material.

(Affidavit and Return Receipts omitted.)

* * * * * * *

149 In the United States Court of Appeals for the Fifth Circuit

[Title omitted]

CERTIFICATE OF THE NATIONAL LABOR RELATIONS BOARD

The National Labor Relations Board, by its Executive Secretary, duly authorized by Section 102.87, Rules and Regulations of the National Labor Relations Board, hereby certifies that the documents annexed hereto constitute a full and accurate transcript of the entire record of a consolidated proceeding had before said Board, entitled, "In the Matter of International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 201, AFL, and the International Rice Milling Co., Inc.; American Rice Milling Co., Inc.; Louisiana State Rice Milling Co., Inc.; and Joseph Dore, Sr., doing business as Supreme Rice Mill, Case No. 15-CC-1," "In the Matter of International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 201, AFL and Loving Rice Mills, Case No. 15-CC-2," "In the Matter of International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 201, AFL and Louisiana State Rice Milling Co., Inc., Case No. 15-CC-3," and "In the Matter of International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 201, AFL and Kaplan Rice Mills, Inc., Case No. 15-CC-4," such transcript including the pleadings, testimony and evidence upon which the order of the Board in said proceeding was entered, and including also the findings and order of the Board.

150 Fully enumerated, said documents attached hereto are as follows:

(1) Copy of order designating Frederic Parkes, 2nd, Trial Examiner for the National Labor Relations Board, dated March 25, 1948.

(2) Stenographic transcript of testimony taken before Trial Examiner Parkes on March 25, 26, and 27, 1948, together with all exhibits introduced in evidence.

(3) Copy of petitioners' telegram, dated April 2, 1948, requesting extension of time for filing briefs with the Trial Examiner.

(4) Copy of Acting Chief Trial Examiner's telegram, dated April 5, 1948, granting all parties extension of time for filing briefs with the Trial Examiner.

(5) Copy of Chief Law Officer's telegram, dated April 20, 1948, requesting further extension of time for filing brief with the Trial Examiner.

(6) Copy of Chief Trial Examiner's telegram dated April 21, 1948, granting all parties further extension of time for filing briefs.

(7) Copy of Chief Law Officer's telegram, dated May 21, 1948, requesting extension of time to file motions to correct transcript.

(8) Copy of Trial Examiner's telegram to all parties, dated May 24, 1948, granting extension of time to file motions to correct transcript.

151 (9) Copy of Chief Law Officer's motion to correct record, dated May 24, 1948.

(10) Copy of order for corrections in transcript of testimony, dated June 23, 1948, together with copy of affidavit of service thereof.

(11) Copy of Trial Examiner Parkes' Intermediate Report, dated June 25, 1948 (annexed to item 22 hereof); copy of order transferring case to the Board, dated July 9, 1948, together with copy of affidavit of service thereof.

(12) Copy of Chief Law Officer's telegram, dated July 19, 1948, requesting permission to argue orally before the Board. (Denied in Decision and Order of June 20, 1949.)

(13) Copy of petitioners' telegram, dated July 26, 1948, requesting extension of time for filing brief.

(14) Copy of telegram, dated July 27, 1948, granting all parties extension of time for filing briefs.

(15) Copy of union's motion for further extension of time for filing exceptions and brief, received July 27, 1948.

(16) Copy of telegrams, dated July 29, 1948, granting all parties further extension of time for filing exceptions and briefs.

(17) Copy of petitioners' exceptions to the Intermediate Report.

(18) Copy of Chief Law Officer's telegram, dated August 11, 1948, requesting still further extension of time for filing briefs.

152 (19) Copy of telegram, dated August 13, 1948, granting all parties still further extension of time for filing briefs.

(20) Copy of General Counsel's exceptions to the Intermediate Report, filed by the Chief Law Officer.

(21) Copy of union's letter, dated August 30, 1948, requesting opportunity to participate in oral argument before the Board. (Denied in Decision and Order of June 20, 1949.)

(22) Copy of Decision and Order issued by the National Labor Relations Board on June 20, 1949, with Intermediate Report annexed, together with affidavit of service and United States Post Office return receipts thereof.

In Testimony Whereof, the Executive Secretary of the National Labor Relations Board, being thereunto duly authorized as afore-

(5) Copy of Chief Law Officer's telegram, dated April 20, 1948, requesting further extension of time for filing brief with the Trial Examiner.

(6) Copy of Chief Trial Examiner's telegram dated April 21, 1948, granting all parties further extension of time for filing briefs.

(7) Copy of Chief Law Officer's telegram, dated May 21, 1948, requesting extension of time to file motions to correct transcript.

(8) Copy of Trial Examiner's telegram to all parties, dated May 24, 1948, granting extension of time to file motions to correct transcript.

151 (9) Copy of Chief Law Officer's motion to correct record, dated May 24, 1948.

(10) Copy of order for corrections in transcript of testimony, dated June 23, 1948, together with copy of affidavit of service thereof.

(11) Copy of Trial Examiner Parkes' Intermediate Report, dated June 25, 1948 (annexed to item 22 hereof); copy of order transferring case to the Board, dated July 9, 1948, together with copy of affidavit of service thereof.

(12) Copy of Chief Law Officer's telegram, dated July 19, 1948, requesting permission to argue orally before the Board. (Denied in Decision and Order of June 20, 1949.)

(13) Copy of petitioners' telegram, dated July 26, 1948, requesting extension of time for filing brief.

(14) Copy of telegram, dated July 27, 1948, granting all parties extension of time for filing briefs.

(15) Copy of union's motion for further extension of time for filing exceptions and brief, received July 27, 1948.

(16) Copy of telegrams, dated July 29, 1948, granting all parties further extension of time for filing exceptions and briefs.

(17) Copy of petitioners' exceptions to the Intermediate Report.

(18) Copy of Chief Law Officer's telegram, dated August 11, 1948, requesting still further extension of time for filing briefs.

152 (19) Copy of telegram, dated August 13, 1948, granting all parties still further extension of time for filing briefs.

(20) Copy of General Counsel's exceptions to the Intermediate Report, filed by the Chief Law Officer.

(21) Copy of union's letter, dated August 30, 1948, requesting opportunity to participate in oral argument before the Board. (Denied in Decision and Order of June 20, 1949.)

(22) Copy of Decision and Order issued by the National Labor Relations Board on June 20, 1949, with Intermediate Report annexed, together with affidavit of service and United States Post Office return receipts thereof.

In Testimony Whereof, the Executive Secretary of the National Labor Relations Board, being thereunto duly authorized as afore-

said, has hereunto set his hand and affixed the seal of the National Labor Relations Board in the city of Washington, District of Columbia, this 21 day of September 1949.

FRANK M. KLEILER,
[SEAL.] *Executive Secretary, National Labor Relations Board.*

153 In the United States Court of Appeals for the Fifth Circuit

No. 12909

INTERNATIONAL RICE MILLING COMPANY, INC., ET AL.

versus

NATIONAL LABOR RELATIONS BOARD

ARGUMENT AND SUBMISSION

Extract from the Minutes of May 22, 1950

On this day this cause was called, and after argument by Conrad Meyer III, Esq., for petitioners, and C. Paul Barker, Esq., Special Counsel, National Labor Relations Board, for respondent, was submitted to the Court.

In the United States Court of Appeals for the Fifth Circuit

No. 12909

INTERNATIONAL RICE MILLING COMPANY, INC., ET AL., PETITIONERS

versus

NATIONAL LABOR RELATIONS BOARD, RESPONDENT

Petition for Review of an Order of the National Labor Relations Board, Sitting at Washington, D. C.

Before HOLMES, WALLER, and BORAH, Circuit Judges

OPINION OF THE COURT—Filed June 21, 1950

HOLMES, Circuit Judge:

Petitioners, pursuant to Section 10(f) of the National Labor Relations Act, as amended,[1] are asking this court to review a decision of the National Labor Relations Board, which dismissed their charges with regard to unlawful activity on the part of the union

[1] 29 U. S. C. A., 160(f).

said, has hereunto set his hand and affixed the seal of the National Labor Relations Board in the city of Washington, District of Columbia, this 21 day of September 1949.

FRANK M. KLEILER,
[SEAL.] *Executive Secretary, National Labor Relations Board.*

153 In the United States Court of Appeals for the Fifth Circuit

No. 12909

INTERNATIONAL RICE MILLING COMPANY, INC., ET AL.

versus

NATIONAL LABOR RELATIONS BOARD

ARGUMENT AND SUBMISSION

Extract from the Minutes of May 22, 1950

On this day this cause was called, and after argument by Conrad Meyer III, Esq., for petitioners, and C. Paul Barker, Esq., Special Counsel, National Labor Relations Board, for respondent, was submitted to the Court.

In the United States Court of Appeals for the Fifth Circuit

No. 12909

INTERNATIONAL RICE MILLING COMPANY, INC., ET AL., PETITIONERS

versus

NATIONAL LABOR RELATIONS BOARD, RESPONDENT

Petition for Review of an Order of the National Labor Relations Board, Sitting at Washington, D. C.

Before HOLMES, WALLER, and BORAH, Circuit Judges

OPINION OF THE COURT—Filed June 21, 1950

HOLMES, Circuit Judge:

Petitioners, pursuant to Section 10(f) of the National Labor Relations Act, as amended,[1] are asking this court to review a decision of the National Labor Relations Board, which dismissed their charges with regard to unlawful activity on the part of the union

[1] 29 U. S. C. A., 160(f).

directed against the employees of railroad companies transporting petitioners' commodities, for the reason that the railroad companies were not "employers" within the meaning of Section 8(b) (4) of the Act, and which also dismissed that part of their charges
154 which alleged that the union violated Section 8(b)(4), with regard to the employees of the Sales House, for the reason that the union's activities occurred in the vicinity of the plant of the "primary" employer and, therefore, were not subject to these provisions of the Act.

Petitioners are in the business of operating rice mills in and around Crowley, Louisiana, which is the center of the rice industry in that state. In 1946, the International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America, Local 201, A. F. L., hereinafter referred to as the union, began an organizational campaign among petitioners' employees. In February, 1947, the union could not prove its majority status among the employees. In September, 1947, the union renewed its organizational activities, and on September 3, 1947, called a strike among petitioners' employees. Enough of the employees remained on the job to keep the mills in operation. Some of those out on strike picketed the mills, and extended their picket lines across the tracks of the Missouri Pacific and Southern Pacific Railroad Companies. At first, the employees of the railroad companies paid no attention to the pickets, and continued to switch cars to and from the mills. On September 15, 1947, the union sent a letter to the chairman of the grievance committee of the Brotherhood of Railroad Trainmen, to which many of the railroad employees belonged, telling him of the union's strike at the petitioners' plants and asking him to have the railroad employees respect the picket lines. The letter did not achieve its purpose, and the railroad employees continued to cross the picket lines. On October 13, 1947, the president of the union called a representative of the Railroad Brotherhood, and told him that the railroad employees might be shot with buckshot if they did not respect the picket lines. The railroad representative went to see the union president and, during their conversation, the president told him of the restlessness of the strikers, and stated that all he could do to any member of his union who committed violence was to suspend him from the union.

On the night of October 15th, the railroad representative received three telephone calls; the last call was made at about 2.00 A. M., and threatened "if our pickets won't stop you, dynamite will." The next day the train crews were informed of these threats and instructed that, in performing their duties, each one of them should use his own discretion in deciding whether or not it was safe to cross the union's picket lines, which thereafter contained from 15 to 30 pickets on the railroads' right-of-ways. The railroad em-

directed against the employees of railroad companies transporting petitioners' commodities, for the reason that the railroad companies were not "employers" within the meaning of Section 8(b) (4) of the Act, and which also dismissed that part of their charges
154 which alleged that the union violated Section 8(b)(4), with regard to the employees of the Sales House, for the reason that the union's activities occurred in the vicinity of the plant of the "primary" employer and, therefore, were not subject to these provisions of the Act.

Petitioners are in the business of operating rice mills in and around Crowley, Louisiana, which is the center of the rice industry in that state. In 1946, the International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America, Local 201, A. F. L., hereinafter referred to as the union, began an organizational campaign among petitioners' employees. In February, 1947, the union could not prove its majority status among the employees. In September, 1947, the union renewed its organizational activities, and on September 3, 1947, called a strike among petitioners' employees. Enough of the employees remained on the job to keep the mills in operation. Some of those out on strike picketed the mills, and extended their picket lines across the tracks of the Missouri Pacific and Southern Pacific Railroad Companies. At first, the employees of the railroad companies paid no attention to the pickets, and continued to switch cars to and from the mills. On September 15, 1947, the union sent a letter to the chairman of the grievance committee of the Brotherhood of Railroad Trainmen, to which many of the railroad employees belonged, telling him of the union's strike at the petitioners' plants and asking him to have the railroad employees respect the picket lines. The letter did not achieve its purpose, and the railroad employees continued to cross the picket lines. On October 13, 1947, the president of the union called a representative of the Railroad Brotherhood, and told him that the railroad employees might be shot with buckshot if they did not respect the picket lines. The railroad representative went to see the union president and, during their conversation, the president told him of the restlessness of the strikers, and stated that all he could do to any member of his union who committed violence was to suspend him from the union.

On the night of October 15th, the railroad representative received three telephone calls; the last call was made at about 2.00 A. M., and threatened "if our pickets won't stop you, dynamite will." The next day the train crews were informed of these threats and instructed that, in performing their duties, each one of them should use his own discretion in deciding whether or not it was safe to cross the union's picket lines, which thereafter contained from 15 to 30 pickets on the railroads' right-of-ways. The railroad em-

ployees, fearful of bodily injury to themselves and their families, refused to cross the picket lines. The seriousness of their refusal to shift rail cars in and out of the mills was felt by the rice farmers, who found themselves unable to harvest their crops, because
155 the mills could not dispose of the rice they had on hand, and thus could not help the farmers handle their highly perishable crops, which rapidly deteriorated unless milled and dried within a short time after being harvested.

On October 22, 1947, the railroad companies applied to the district court in Louisiana to have the picketing on its tracks enjoined, and a preliminary injunction was issued against the union ordering it to cease interfering with the operation of the railroad companies' business with petitioners' mills. The union ceased picketing the railroad tracks, but continued to picket petitioners' plants until the end of 1947. Another similar incident took place in Kaplan, Louisiana, when a large number of pickets refused to let a truck, owned and operated by the Sales House, enter to pick up a load of rice. After being turned away at one gate, the truck driver attempted to enter the rice mill by another way, but the same group of pickets stoned the truck and again prevented its entrance to the mill.

Petitioners filed charges with the Board, alleging that the union had violated Section 8(b)(4)(A) and (B) of the Act by inducing and encouraging the railroad employees and the employees of the Sales House, a grain warehouse, to cease doing business with them and to cease transporting their merchandise. As a result of these charges, a hearing was held on March 25, 1948, and the trial examiner found that the union had violated Section 8(b)(4)(A) and (B) and recommended that the Board issue an order directing the union to cease and desist from further activity along these lines. On June 20, 1949, the Board issued its decision, which dismissed petitioners' charges with regard to any wrongful activity of the union, directed against the employees of the railroad companies, because it was of the opinion that the railroad companies were not "employers" within the meaning of Section 8(b)(4)(A) and (B) of the Act; the Board also dismissed petitioners' charges which alleged that the union had violated these sections of the Act regarding the employees of the Sales House, for the reason that the union's activities had occurred in the vicinity of the plant of the primary employer and, therefore, were not subject to the provisions of Section 8(b)(4)(A) and (B) of the Act. It is the decision of the Board dismissing these charges that the petitioners are asking this court to review.

The questions presented for our determination are purely issues of law, and are two in number. First, we must decide whether an employer who is subject to the Railway Labor Act is an employer within the meaning of Section 8(b)(4)(A) and (B) of the National Labor Relations Act; second, whether the inducement of employees

ployees, fearful of bodily injury to themselves and their families, refused to cross the picket lines. The seriousness of their refusal to shift rail cars in and out of the mills was felt by the rice farmers, who found themselves unable to harvest their crops, because
155 the mills could not dispose of the rice they had on hand, and thus could not help the farmers handle their highly perishable crops, which rapidly deteriorated unless milled and dried within a short time after being harvested.

On October 22, 1947, the railroad companies applied to the district court in Louisiana to have the picketing on its tracks enjoined, and a preliminary injunction was issued against the union ordering it to cease interfering with the operation of the railroad companies' business with petitioners' mills. The union ceased picketing the railroad tracks, but continued to picket petitioners' plants until the end of 1947. Another similar incident took place in Kaplan, Louisiana, when a large number of pickets refused to let a truck, owned and operated by the Sales House, enter to pick up a load of rice. After being turned away at one gate, the truck driver attempted to enter the rice mill by another way, but the same group of pickets stoned the truck and again prevented its entrance to the mill.

Petitioners filed charges with the Board, alleging that the union had violated Section 8(b)(4)(A) and (B) of the Act by inducing and encouraging the railroad employees and the employees of the Sales House, a grain warehouse, to cease doing business with them and to cease transporting their merchandise. As a result of these charges, a hearing was held on March 25, 1948, and the trial examiner found that the union had violated Section 8(b)(4)(A) and (B) and recommended that the Board issue an order directing the union to cease and desist from further activity along these lines. On June 20, 1949, the Board issued its decision, which dismissed petitioners' charges with regard to any wrongful activity of the union, directed against the employees of the railroad companies, because it was of the opinion that the railroad companies were not "employers" within the meaning of Section 8(b)(4)(A) and (B) of the Act; the Board also dismissed petitioners' charges which alleged that the union had violated these sections of the Act regarding the employees of the Sales House, for the reason that the union's activities had occurred in the vicinity of the plant of the primary employer and, therefore, were not subject to the provisions of Section 8(b)(4)(A) and (B) of the Act. It is the decision of the Board dismissing these charges that the petitioners are asking this court to review.

The questions presented for our determination are purely issues of law, and are two in number. First, we must decide whether an employer who is subject to the Railway Labor Act is an employer within the meaning of Section 8(b)(4)(A) and (B) of the National Labor Relations Act; second, whether the inducement of employees

of a neutral employer not to transport goods, by picketing and other related activities conducted at the situs of a primary (struck) employer's place of business, is prohibited by Section 8(b)(4)(A) and (B) of the Act.

156 We disagree with the Board's holding that the words "any employer," as used in that section of the statute in question here, do not include railroad companies as employers. Section 8(b)(4) provides as follows:

> "(b) It shall be an unfair labor practice for a labor organization or its agents—
>
> (4) to engage in, or to induce or encourage the employees of any employer to engage in a strike or a concerted refusal in the course of their employment to use, manufacture, process, transport, or otherwise handle or work on any goods, articles, materials, or commodities or to perform any services, where an object thereof is:
>
> (A) forcing or requiring any employer or self-employed person to join any labor or employer organization or any employer or other person to cease using, selling, handling, transporting, or otherwise dealing in the products of any other producer, processor, or manufacturer, or to cease doing business with any other person;
>
> (B) forcing or requiring any other employer to recognize or bargain with a labor organization as the representative of his employees unless such labor organization has been certified as the representative of such employees under the provisions of Section 9;
>
> (C) . . .
>
> (D) . . .
>
> Provided, That nothing contained in this subsection shall be construed to make unlawful a refusal by any person to enter upon the premises of any employer (other than his own employer) if the employees of such employer are engaged in a strike ratified or approved by a representative of such employees whom such employer is required to recognize under this subchapter;
>
> . . . ."

Section 2(2) defines the term "employer" as follows:

> "(2) The term 'employer' includes any person acting as an agent of an employer, directly or indirectly, but shall not include the United States or any wholly owned Government cor-

of a neutral employer not to transport goods, by picketing and other related activities conducted at the situs of a primary (struck) employer's place of business, is prohibited by Section 8(b)(4)(A) and (B) of the Act.

156 We disagree with the Board's holding that the words "any employer," as used in that section of the statute in question here, do not include railroad companies as employers. Section 8(b)(4) provides as follows:

> "(b) It shall be an unfair labor practice for a labor organization or its agents—
>
> (4) to engage in, or to induce or encourage the employees of any employer to engage in a strike or a concerted refusal in the course of their employment to use, manufacture, process, transport, or otherwise handle or work on any goods, articles, materials, or commodities or to perform any services, where an object thereof is:
>
> (A) forcing or requiring any employer or self-employed person to join any labor or employer organization or any employer or other person to cease using, selling, handling, transporting, or otherwise dealing in the products of any other producer, processor, or manufacturer, or to cease doing business with any other person;
>
> (B) forcing or requiring any other employer to recognize or bargain with a labor organization as the representative of his employees unless such labor organization has been certified as the representative of such employees under the provisions of Section 9;
>
> (C) . . .
>
> (D) . . .
>
> Provided, That nothing contained in this subsection shall be construed to make unlawful a refusal by any person to enter upon the premises of any employer (other than his own employer) if the employees of such employer are engaged in a strike ratified or approved by a representative of such employees whom such employer is required to recognize under this subchapter;
>
> . . . ."

Section 2(2) defines the term "employer" as follows:

> "(2) The term 'employer' includes any person acting as an agent of an employer, directly or indirectly, but shall not include the United States or any wholly owned Government cor-

poration, or any Federal Reserve Bank, or any State or political subdivision thereof, or any corporation or association operating a hospital, if no part of the net earnings inures to the benefit of any private shareholder or individual, or any person subject to the Railway Labor Act, as amended from time to time, or any labor organization (other than when acting as an
157 employer), or anyone acting in the capacity of officer or agent of such labor organization."

We are of the opinion that the situation before us now was intended to be covered by the above-mentioned Section 8(b) (4) of the Act. The purpose of Section 8(b) (4) (A) and (B) is to protect commerce from injury, impairment, and interruption, by removing obstructions like the one we have here. If the Board's view were to prevail, the industry most directly and extensively concerned with commerce, the vast railroad transportation system, would be at the mercy of ambitious unions, which could use them as a means of forcing themselves upon plants like petitioners where they do not have a majority status. There is no doubt that Congress intended to exclude railroad companies and their employees from the National Labor Relations Act in so far as the regulation of labor relations was concerned. The Railway Labor Act is a separate and earlier piece of legislation than either the Wagner Act or the National Labor Relations Act, and for that reason Congress permitted the law governing the rights and duties of the railroad companies and their employees to remain unchanged. Section 8(b) (4) of the National Labor Relations Act, as amended in 1947, as applied to this case, does not seek to enter the field of railway labor relations. Petitioners are not asking that anything be done to the railroad companies or their employees, or that they be compelled to do anything. All petitioners seek is a removal of the railroads and their employees from the scope of a labor-management conflict in which they have no interest and want no part. We think Congress provided for the removal of such obstacles from the free flow of interstate commerce when it enacted Section 8(b) (4).

A close reading of the language used in Section 8(b) (4) convinces us that, by the use of the words "any employer," Congress intended to extend the section to any and all situations relative to the one we have before us. In this particular section, the usage of the word "any," as applied to the term employer, is confined solely to subsection 4. Contrasting the usage of the word "any," as found in subsection 4, with the use of the indefinite article "an," as used elsewhere in the section, gives rise to the inference, we think, that Congress intended the word "any" to embrace the class of employers as a whole, and not merely those within the definition of "employer," as set forth in Section 2(2) of the Act. In construing a statute, it

poration, or any Federal Reserve Bank, or any State or political subdivision thereof, or any corporation or association operating a hospital, if no part of the net earnings inures to the benefit of any private shareholder or individual, or any person subject to the Railway Labor Act, as amended from time to time, or any labor organization (other than when acting as an
157 employer), or anyone acting in the capacity of officer or agent of such labor organization."

We are of the opinion that the situation before us now was intended to be covered by the above-mentioned Section 8(b) (4) of the Act. The purpose of Section 8(b) (4) (A) and (B) is to protect commerce from injury, impairment, and interruption, by removing obstructions like the one we have here. If the Board's view were to prevail, the industry most directly and extensively concerned with commerce, the vast railroad transportation system, would be at the mercy of ambitious unions, which could use them as a means of forcing themselves upon plants like petitioners where they do not have a majority status. There is no doubt that Congress intended to exclude railroad companies and their employees from the National Labor Relations Act in so far as the regulation of labor relations was concerned. The Railway Labor Act is a separate and earlier piece of legislation than either the Wagner Act or the National Labor Relations Act, and for that reason Congress permitted the law governing the rights and duties of the railroad companies and their employees to remain unchanged. Section 8(b) (4) of the National Labor Relations Act, as amended in 1947, as applied to this case, does not seek to enter the field of railway labor relations. Petitioners are not asking that anything be done to the railroad companies or their employees, or that they be compelled to do anything. All petitioners seek is a removal of the railroads and their employees from the scope of a labor-management conflict in which they have no interest and want no part. We think Congress provided for the removal of such obstacles from the free flow of interstate commerce when it enacted Section 8(b) (4).

A close reading of the language used in Section 8(b) (4) convinces us that, by the use of the words "any employer," Congress intended to extend the section to any and all situations relative to the one we have before us. In this particular section, the usage of the word "any," as applied to the term employer, is confined solely to subsection 4. Contrasting the usage of the word "any," as found in subsection 4, with the use of the indefinite article "an," as used elsewhere in the section, gives rise to the inference, we think, that Congress intended the word "any" to embrace the class of employers as a whole, and not merely those within the definition of "employer," as set forth in Section 2(2) of the Act. In construing a statute, it

is necessary that every word be given significance and effect, and every part of the statute must be construed in connection with the whole, so as to make all parts harmonize. Thus, if Congress had intended the word "employer" to mean only such employers as defined in Section 2(2), it would have preceded the word by the indefinite article "an." Since this was not done, we think it
158 reasonable to conclude that the word "employer," as used in Section 8(b)(4), was intended to have a wider and more inclusive meaning than the definition found in Section 2(2).

A further reading of Section 8(b)(4)(A) reveals the language "forcing or requiring . . . any employer or other person to cease using, selling, handling, transporting or otherwise dealing . . ." The definition of the word "person" in the Act does not exclude railroad companies. The words "any employer," as used in Section 8(b)(4), appear to us to refer to the same employer as described in Section 8(b)(4)(A) by the words "any employer or other person." Thus we see the use of the words "any employer or other person" being used to amplify and explain the words "any employer." Since the word "person," as defined in the Act, does not exclude the railroad companies, and since it is used here in connection with the words "any employer," we think it highly persuasive of the fact that railroad companies were not intended to be excluded from the purview of Section 8(b)(4)(A) and (B) of the Act. *Noscitur a sociis*: the meaning of a word may be ascertained by reference to the meaning of words associated with it.[2]

By construing the language of the statute so as to include railroad companies within the meaning of the words "any employer," we are giving effect to the intent of Congress to stop secondary boycotts in the transportation industry. If such an interpretation is not allowed, the meaning and use of the words "transport" and "transporting," used throughout the section, would be rendered ineffective and almost useless, since the railroads transport the vast bulk of freight in this country. Courts usually will avoid interpreting a statute so as to render it ineffective, or to cause grave public injury, if there is a more reasonable interpretation that can rightfully be adopted.

We do not agree with the Board's holding that the union's activities in refusing to allow a truck owned and operated by grain warehousemen were not violative of Section 8(b)(4)(A) and (B) of the Act. The Board assigns as the reason for its holding, the fact that the union's activities arose out of primary picketing, and that, since they were carried out in the immediate vicinity of the mill, they were not violative of the Act. The Board attempts to draw a fine distinction between primary and secondary action. Although the

[2] Broom's Legal Maxims, 4th Edition, p. 374.

is necessary that every word be given significance and effect, and every part of the statute must be construed in connection with the whole, so as to make all parts harmonize. Thus, if Congress had intended the word "employer" to mean only such employers as defined in Section 2(2), it would have preceded the word by the indefinite article "an." Since this was not done, we think it
158 reasonable to conclude that the word "employer," as used in Section 8(b)(4), was intended to have a wider and more inclusive meaning than the definition found in Section 2(2).

A further reading of Section 8(b)(4)(A) reveals the language "forcing or requiring . . . any employer or other person to cease using, selling, handling, transporting or otherwise dealing . . ." The definition of the word "person" in the Act does not exclude railroad companies. The words "any employer," as used in Section 8(b)(4), appear to us to refer to the same employer as described in Section 8(b)(4)(A) by the words "any employer or other person." Thus we see the use of the words "any employer or other person" being used to amplify and explain the words "any employer." Since the word "person," as defined in the Act, does not exclude the railroad companies, and since it is used here in connection with the words "any employer," we think it highly persuasive of the fact that railroad companies were not intended to be excluded from the purview of Section 8(b)(4)(A) and (B) of the Act. *Noscitur a sociis*: the meaning of a word may be ascertained by reference to the meaning of words associated with it.[2]

By construing the language of the statute so as to include railroad companies within the meaning of the words "any employer," we are giving effect to the intent of Congress to stop secondary boycotts in the transportation industry. If such an interpretation is not allowed, the meaning and use of the words "transport" and "transporting," used throughout the section, would be rendered ineffective and almost useless, since the railroads transport the vast bulk of freight in this country. Courts usually will avoid interpreting a statute so as to render it ineffective, or to cause grave public injury, if there is a more reasonable interpretation that can rightfully be adopted.

We do not agree with the Board's holding that the union's activities in refusing to allow a truck owned and operated by grain warehousemen were not violative of Section 8(b)(4)(A) and (B) of the Act. The Board assigns as the reason for its holding, the fact that the union's activities arose out of primary picketing, and that, since they were carried out in the immediate vicinity of the mill, they were not violative of the Act. The Board attempts to draw a fine distinction between primary and secondary action. Although the

[2] Broom's Legal Maxims, 4th Edition, p. 374.

term "secondary boycott" does not appear anywhere in the section in question, the section itself is often referred to as the "secondary boycott" section, and is most commonly understood to make secondary boycotts an unfair labor practice. We know of no accurate definition for the term "secondary boycott." When secondary boycotts were discussed in the Senate in connection with the
159 passage of the Taft-Hartley Act, Senator Taft said: "It has been set forth that there are good secondary boycotts and bad secondary boycotts. Our committee heard evidence for weeks and never succeeded in having anyone tell us any difference between the different kinds of secondary boycotts. So we have broadened the provision dealing with secondary boycotts as to make them an unfair labor practice." 93 Daily Congressional Record 4323 (April 29, 1947).

The statute clearly provides a remedy for the type of conduct engaged in by the union, without resort to any distinction between primary and secondary activities. If the union's activities come within the language of the statute, they constitute an unfair labor practice, regardless of whether they might have been considered a true "secondary boycott" under the old common law or under any of the modern and popular theories. The trial examiner found that the pickets refused to allow a truck, owned by the Sales House, a neutral grain warehouse operator, to enter petitioners' mill; that when it attempted to enter on another street, the pickets threw stones at it; and that the pickets did not represent a majority of petitioners' employees. The Board did not overturn any of these findings, but merely concluded that, since they occurred in the immediate vicinity of the struck employer's plant they were primary activities and not within the coverage of the statute prohibiting secondary boycotts. No decision was made on the restraint, coercion, or violence of the strikers, because not alleged in petitioners' complaint; but the Board did state that, while violence was not to be condoned, even if there was violence it would not convert primary picketing into secondary action within the meaning of the Act.

Comparing the union's activities with the plain wording of the statute, it is apparent to us that the union was attempting to induce and encourage the employees of the Sales House to refuse to transport or otherwise handle the goods and commodities of the rice mills. The purpose of such action was to compel the rice mills to recognize the union as the representative of its employees, although it did not represent a majority of the employees. There was violence as evidenced by the trial examiner's finding that the truck was stoned, though the Board did not find it necessary to rule on same. The circumstances surrounding this action, all of which the trial examiner was keenly aware of, prompted a finding by him contrary to that of the Board. We do not think the ends of justice will be

term "secondary boycott" does not appear anywhere in the section in question, the section itself is often referred to as the "secondary boycott" section, and is most commonly understood to make secondary boycotts an unfair labor practice. We know of no accurate definition for the term "secondary boycott." When secondary boycotts were discussed in the Senate in connection with the
159 passage of the Taft-Hartley Act, Senator Taft said: "It has been set forth that there are good secondary boycotts and bad secondary boycotts. Our committee heard evidence for weeks and never succeeded in having anyone tell us any difference between the different kinds of secondary boycotts. So we have broadened the provision dealing with secondary boycotts as to make them an unfair labor practice." 93 Daily Congressional Record 4323 (April 29, 1947).

The statute clearly provides a remedy for the type of conduct engaged in by the union, without resort to any distinction between primary and secondary activities. If the union's activities come within the language of the statute, they constitute an unfair labor practice, regardless of whether they might have been considered a true "secondary boycott" under the old common law or under any of the modern and popular theories. The trial examiner found that the pickets refused to allow a truck, owned by the Sales House, a neutral grain warehouse operator, to enter petitioners' mill; that when it attempted to enter on another street, the pickets threw stones at it; and that the pickets did not represent a majority of petitioners' employees. The Board did not overturn any of these findings, but merely concluded that, since they occurred in the immediate vicinity of the struck employer's plant they were primary activities and not within the coverage of the statute prohibiting secondary boycotts. No decision was made on the restraint, coercion, or violence of the strikers, because not alleged in petitioners' complaint; but the Board did state that, while violence was not to be condoned, even if there was violence it would not convert primary picketing into secondary action within the meaning of the Act.

Comparing the union's activities with the plain wording of the statute, it is apparent to us that the union was attempting to induce and encourage the employees of the Sales House to refuse to transport or otherwise handle the goods and commodities of the rice mills. The purpose of such action was to compel the rice mills to recognize the union as the representative of its employees, although it did not represent a majority of the employees. There was violence as evidenced by the trial examiner's finding that the truck was stoned, though the Board did not find it necessary to rule on same. The circumstances surrounding this action, all of which the trial examiner was keenly aware of, prompted a finding by him contrary to that of the Board. We do not think the ends of justice will be

best served if we allow the Board to overturn this finding merely because it considers all the activities to be primary instead of secondary. It seems to us that these activities became secondary when the strikers attempted to induce and encourage the employees of this neutral employer Sales House. The fact that they occurred near the struck employer's plant is not enough to draw such a distinction as the Board attempts to draw, especially where there
160 is violence. The gravamen of the offense prohibited by the statute is that its sanctions bear, not upon the employer who alone is a party to the dispute, but upon some neutral employer who has no concern in the dispute, and its aim is to compel him to stop business with the employer in the hope that the employer will be induced to submit to the demands of the strikers. To allow the Board to rule such activity as prohibited by the statute not to be a violation thereof, simply because it occurred in the vicinity of the struck employer's plant, would render the section ineffective and insufficient.

The Board erred in its interpretation of Section 8(b)(4)(A) and (B), and for that reason its order dismissing petitioners' complaint is hereby set aside, and the case is remanded to the Board for further proceedings not inconsistent with this opinion.

In United States Court of Appeals

No. 12909

INTERNATIONAL RICE MILLING COMPANY, INC., ET AL.,

versus

NATIONAL LABOR RELATIONS BOARD

JUDGMENT

Extract from the Minutes of June 21, 1950

This cause came on to be heard on the petition for International Rice Milling Company, and others, for a review of an order of the National Labor Relations Board, made on June 20, 1949, "In the Matter of International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 201, A. F. L., and The International Rice Milling Co., Inc.; American Rice Milling Co., Inc., Louisiana State Rice Milling Co., Inc.; and Joseph Dore, Sr., doing business as Supreme Rice Mill," "In the Matter of International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 201, A. F. L. and Loving Rice Mills," "In the Matter of International Brotherhood of Teamsters, Chauf-

best served if we allow the Board to overturn this finding merely because it considers all the activities to be primary instead of secondary. It seems to us that these activities became secondary when the strikers attempted to induce and encourage the employees of this neutral employer Sales House. The fact that they occurred near the struck employer's plant is not enough to draw such a distinction as the Board attempts to draw, especially where there
160 is violence. The gravamen of the offense prohibited by the statute is that its sanctions bear, not upon the employer who alone is a party to the dispute, but upon some neutral employer who has no concern in the dispute, and its aim is to compel him to stop business with the employer in the hope that the employer will be induced to submit to the demands of the strikers. To allow the Board to rule such activity as prohibited by the statute not to be a violation thereof, simply because it occurred in the vicinity of the struck employer's plant, would render the section ineffective and insufficient.

The Board erred in its interpretation of Section 8(b)(4)(A) and (B), and for that reason its order dismissing petitioners' complaint is hereby set aside, and the case is remanded to the Board for further proceedings not inconsistent with this opinion.

In United States Court of Appeals

No. 12909

INTERNATIONAL RICE MILLING COMPANY, INC., ET AL.,

versus

NATIONAL LABOR RELATIONS BOARD

JUDGMENT

Extract from the Minutes of June 21, 1950

This cause came on to be heard on the petition for International Rice Milling Company, and others, for a review of an order of the National Labor Relations Board, made on June 20, 1949, "In the Matter of International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 201, A. F. L., and The International Rice Milling Co., Inc.; American Rice Milling Co., Inc., Louisiana State Rice Milling Co., Inc.; and Joseph Dore, Sr., doing business as Supreme Rice Mill," "In the Matter of International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 201, A. F. L. and Loving Rice Mills," "In the Matter of International Brotherhood of Teamsters, Chauf-

feurs, Warehousemen and Helpers of America, Local 201, A. F. L., and Louisiana State Rice Milling Co., Inc.", and "In the Matter of International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 201, A. F. L., and Kaplan Rice Mills, Inc." Cases Nos. 15-CC-1, 2, 3, and 4, and was argued by counsel;

On consideration whereof, It is now here ordered, adjudged and decreed by this Court, the order of the Board, dismissing petitioners' complaint is hereby set aside, and that this cause be, and it is hereby, remanded to the said National Labor Relations Board for further proceedings not inconsistent with the opinion of this Court.

---

161 In the United States Circuit Court of Appeals for the Fifth Circuit

[Title omitted]

MOTION OF INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, ETC., LOCAL 201 TO INTERVENE—Filed July 6, 1950

To the Honorable Judges of the United States Circuit Court of Appeals for the Fifth Circuit:

The International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local 201, A. F. L., respectfully petitions this Honorable Court for leave to intervene in this action, in order to assert its defenses to the petition of the petitioner, in that they will be bound by a judgment in this action and the representation of their interest by existing parties may be inadequate; there are no new or additional questions, either of law or of fact which will result from such intervention; and to permit them to intervene and be joined as parties defendant would neither unduly delay nor prejudice the adjudication of the rights of the original parties.

DIXIE & RYAN,
310 Scanlan Building,
Houston, Texas,
Attorneys for Intervenor.

AL SCHULMAN,
Of Counsel.

[Certificate of Service omitted in printing.]

feurs, Warehousemen and Helpers of America, Local 201, A. F. L., and Louisiana State Rice Milling Co., Inc.", and "In the Matter of International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 201, A. F. L., and Kaplan Rice Mills, Inc." Cases Nos. 15-CC-1, 2, 3, and 4, and was argued by counsel;

On consideration whereof, It is now here ordered, adjudged and decreed by this Court, the order of the Board, dismissing petitioners' complaint is hereby set aside, and that this cause be, and it is hereby, remanded to the said National Labor Relations Board for further proceedings not inconsistent with the opinion of this Court.

---

161 In the United States Circuit Court of Appeals for the Fifth Circuit

[Title omitted]

MOTION OF INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, ETC., LOCAL 201 TO INTERVENE—Filed July 6, 1950

To the Honorable Judges of the United States Circuit Court of Appeals for the Fifth Circuit:

The International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local 201, A. F. L., respectfully petitions this Honorable Court for leave to intervene in this action, in order to assert its defenses to the petition of the petitioner, in that they will be bound by a judgment in this action and the representation of their interest by existing parties may be inadequate; there are no new or additional questions, either of law or of fact which will result from such intervention; and to permit them to intervene and be joined as parties defendant would neither unduly delay nor prejudice the adjudication of the rights of the original parties.

DIXIE & RYAN,
310 Scanlan Building,
Houston, Texas,
Attorneys for Intervenor.

AL SCHULMAN,
Of Counsel.

[Certificate of Service omitted in printing.]

162-163 In United States Court of Appeals

[Title omitted]

ORDER DENYING MOTION OF INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA, LOCAL 201 TO INTERVENE

Extract from the Minutes of July 6, 1950

On consideration of the motion of International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local 201, A. F. L., for leave to intervene in the above entitled and numbered cause,

It Is Ordered that said motion for leave to intervene be, and the same is hereby, Denied.

Clerk's Certificate to foregoing transcript omitted in printing.

164 Supreme Court of the United States, October Term, 1950

No. 313

ORDER ALLOWING CERTIORARI—Filed December 11, 1950

The petition herein for a writ of certiorari to the United States Court of Appeals for the Fifth Circuit is granted. The case is transferred to the summary docket.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

U. S. GOVERNMENT PRINTING OFFICE: 1951 951420 ADD

162-163 In United States Court of Appeals

[Title omitted]

ORDER DENYING MOTION OF INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA, LOCAL 201 TO INTERVENE

Extract from the Minutes of July 6, 1950

On consideration of the motion of International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local 201, A. F. L., for leave to intervene in the above entitled and numbered cause,

It Is Ordered that said motion for leave to intervene be, and the same is hereby, Denied.

Clerk's Certificate to foregoing transcript omitted in printing.

164 Supreme Court of the United States, October Term, 1950

No. 313

ORDER ALLOWING CERTIORARI—Filed December 11, 1950

The petition herein for a writ of certiorari to the United States Court of Appeals for the Fifth Circuit is granted. The case is transferred to the summary docket.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

U. S. GOVERNMENT PRINTING OFFICE: 1951 951420 ADD